

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO**

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2005-G-2668
STEVEN K. SAVAGE,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 01 CR 000060.

Judgment: Appeal dismissed.

David P. Joyce, Geauga County Prosecutor, Courthouse Annex, 231 Main Street, Chardon, OH 44024 (For Plaintiff-Appellee).

Steven K. Savage, pro se, PID: 423-361, Lebanon Correctional Institution, P.O. Box 56, Lebanon, OH 45036 (Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.,

{¶1} On September 21, 2005, appellant, Steven K. Savage, filed a pro se motion for leave to file a delayed appeal, pursuant to App.R. 5(A), from his judgment of conviction and sentence issued by the trial court on March 5, 2002. That judgment indicates that appellant entered a plea of guilty to five counts of rape, and he was sentenced to ten years in prison.

{¶2} Appellant's motion for delayed appeal was filed over three years after the judgment was entered by the trial court.

{¶3} App.R. 5(A) provides, in relevant part:

{¶4} “After the expiration of the thirty day period provided by App.R. 4(A) for the filing of a notice of appeal as of right in criminal cases, an appeal may be taken only by leave of the court to which the appeal is taken. A motion for leave to appeal shall be filed with the court of appeals and shall set forth the reasons for the failure of the appellant to perfect an appeal as of right.”

{¶5} In appellant’s motion, and supplement to his motion filed September 30, 2005, he asserts that the reason for failing to perfect a timely appeal is that he is a layman and is not knowledgeable in the law. He also indicates that while he asked his trial counsel to file an appeal, counsel informed him that he did not have a right to appeal.

{¶6} Given that over three years elapsed between the time of appellant’s conviction and sentence until the filing of his motion for delayed appeal, it is evident that appellant was not diligent in taking the proper steps to protect his own rights. Further, the reason submitted by appellant as the cause for the delay do not adequately justify waiting that length of time to initiate a direct appeal. Surely, a defendant who is incarcerated in the state correctional institution must realize that he cannot wait over three years to file an appeal.

{¶7} Accordingly, it is ordered that appellant’s motion for leave to file a delayed appeal is hereby overruled.

{¶8} Appeal dismissed.

DONALD R. FORD, P.J.,

DIANE V. GRENDALL, J.,

concur.