

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2006-P-0001
THOMAS A. SOUTH, SR.,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 97 CR 0137.

Judgment: Appeal Dismissed.

Victor V. Vigluicci, Portage County Prosecutor, 466 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Thomas A. South, Sr., pro se, PID: 356-826, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030 (For Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.,

{¶1} On January 4, 2006, appellant, Thomas A. South, Sr., filed a pro se "Motion for Leave to File a Delayed Appeal." Appellant appeals from the sentencing entry issued by the trial court on November 26, 2002, in which he was sentenced to a prison term of ten years for the offense of rape.

{¶2} Upon review of the record in the instant matter, it is apparent that appellant has already appealed his sentence and conviction to this Court in *State v. South*, 11th Dist. No. 2002-P-0137, 2004-Ohio-3336. Appellant filed a notice of appeal

on December 23, 2002, from the judgment of conviction and sentence issued by the trial court on November 26, 2002. In that appeal, this Court affirmed the judgment of the trial court on June 28, 2004.

{¶3} Accordingly, appellant already appealed his conviction and sentence and he cannot utilize App.R. 5(A) as a means to file another appeal from his conviction and sentence, therefore, it is ordered that appellant's motion for leave to file a delayed appeal is hereby overruled.

{¶4} Appeal dismissed.

DONALD R. FORD, P.J.,

DIANE V. GRENDALL, J.,

concur.