

**IN THE COURT OF APPEALS  
ELEVENTH APPELLATE DISTRICT  
TRUMBULL COUNTY, OHIO**

|                      |   |                             |
|----------------------|---|-----------------------------|
| STATE OF OHIO,       | : | <b>MEMORANDUM OPINION</b>   |
| Plaintiff-Appellee,  | : |                             |
| - vs -               | : | <b>CASE NO. 2011-T-0081</b> |
| SHERRY MARIE DELKER, | : |                             |
| Defendant-Appellant. | : |                             |

Criminal Appeal from the Court of Common Pleas, Case No. 02 CR 210.

Judgment: Appeal dismissed.

*Dennis Watkins*, Trumbull County Prosecutor, *LuWayne Annos*, Assistant Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481-1092 (For Plaintiff-Appellee).

*Sherry Marie Delker*, pro se, PID: W053417, Ohio Reformatory for Women, 1479 Collins Avenue, Marysville, OH 43040 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On August 9, 2011, appellant, Sherry Marie Delker, filed with this court a pro se motion for a delayed appeal pursuant to App.R. 5(A). Along with the motion, appellant's notice of appeal was filed in the trial court on the same date. Appellant is appealing her original judgment of conviction and sentence issued by the Trumbull County Court of Common Pleas on October 2, 2002. Thus, the appeal is untimely by over eight years.

{¶2} Appellee filed its response opposing the motion for leave to file a delayed appeal on August 11, 2011.

{¶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, an appeal may be taken by a defendant with leave of the court to which the appeal is taken in the following classes of cases:

{¶5} “(a) Criminal proceedings;

{¶6} “(b) Delinquency proceedings; and

{¶7} “(c) Serious youthful offender proceedings.

{¶8} “(2) 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. Concurrently with the filing of the motion, the movant shall file with the clerk of the trial court a notice of appeal in the form prescribed by App.R. 3 and shall file a copy of the notice of the appeal in the court of appeals.”

{¶9} In her motion, appellant indicates the following as the reason for filing her appeal untimely: “I didn’t figure out that my daughter killed herself til later on. I was doing time and I knew I was innocent. I just didn’t know the whole story til I was already doing time on my case.”

{¶10} The foregoing reason does not justify a delay of over eight years between the time of appellant’s conviction and sentence until the filing of her motion for delayed appeal. We find that appellant was not diligent in taking the proper steps to protect her own rights.

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

{¶12} Appeal dismissed.

TIMOTHY P. CANNON, P.J.,

THOMAS R. WRIGHT, J.,

concur.