

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

STATE OF OHIO,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2012-L-068</b>
ANDRE D. JOHNSON,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 07 CR 000516.

Judgment: Appeal dismissed.

*Charles E. Coulson*, Lake County Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

*Andre D. Johnson*, pro se, PID: A541001, Mansfield Correctional Institution, P.O. Box 788, Mansfield, OH 44901 (Defendant-Appellant).

DIANE V. GRENDELL, J.

{¶1} This matter is before this court on the pro se motion of appellant, Andre D. Johnson, for leave to file a delayed appeal. Along with his motion, appellant filed his notice of appeal on June 15, 2012. Appellant is appealing the trial court's November 28, 2007 judgment, sentencing him to serve eight years in prison for unlawful sexual conduct with a minor following a guilty plea. Thus, appellant's appeal was filed four and a half years after the trial court's judgment. No response in opposition was filed.

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

{¶3} “(1) 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:

{¶4} “(a) Criminal proceedings;

{¶5} “\* \* \*

{¶6} “(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. \* \* \*”

{¶7} In his motion, appellant asserts as his reason for failing to perfect a timely appeal that he needed to understand the Uniform Commercial Code.

{¶8} Given the length of time that has passed from the time of appellant’s 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. In addition, it is unclear how the reason submitted by appellant as the cause for the delay pertains to this matter. Also, appellant’s stated reason does not justify waiting four and a half years to initiate a direct appeal. Therefore, we find that appellant has not satisfied the requirements of App.R. 5(A).

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

{¶10} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

THOMAS R. WRIGHT, J.,

concur.