

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2012-T-0065
DONALD JOSEPH CRITES,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 10 CR 18.

Judgment: Appeal dismissed.

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

Donald Joseph Crites, pro se, PID: A591247, Mansfield Correctional Institution, P.O. Box 788, Mansfield, OH 44901 (Defendant-Appellant).

THOMAS R. WRIGHT, J.

{¶1} By way of background, on May 10, 2012, appellant, Donald Joseph Crites, filed his first pro se motion for leave to file a delayed appeal, Case No. 2012-T-0040. However, a notice of appeal was not concurrently filed. On July 16, 2012, this court issued a judgment entry finding that appellant did not comply with App.R. 5(A). Thus, we overruled appellant's motion and dismissed the matter.

{¶2} Presently before us is appellant's August 10, 2012 second pro se motion for leave to file a delayed appeal. This time, a notice of appeal was concurrently filed. Appellant is requesting leave to appeal the trial court's August 11, 2010 judgment convicting him of rape and the jointly recommended sentence of ten years to life in prison. Thus, appellant's second motion for leave to appeal was filed approximately two years after his conviction and sentence.

{¶3} Appellee, the state of Ohio, filed a response in opposition to appellant's motion. Appellant subsequently responded to the state's opposition.

{¶4} App.R. 5(A) provides, in part:

{¶5} “(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:

{¶6} “(a) Criminal proceedings;

{¶7} “* * *

{¶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 his motion, appellant asserts the following as his reasons for failing to perfect a timely appeal: (1) the trial court and/or his trial counsel failed to inform him of his right to appeal; (2) failed to inform him of the time limits for perfecting an appeal; and (3) failed to inform him of his right to have the assistance of court-appointed counsel.

Appellant also contends that his lack of legal knowledge prevented him from timely filing his appeal.

{¶10} Given the length of time that has passed from the time of appellant's conviction and sentence until the filing of his present motion for leave to file a delayed appeal, it is evident that appellant was not diligent in taking the proper steps to protect his own rights. In addition, the reasons submitted by appellant as the cause for the delay do not justify a nearly two-year delay in filing a proper appeal. With respect to appellant's contention that he lacks legal knowledge, courts have long held that ignorance of the law does not excuse procedural inadequacies, i.e., failure to file a notice or motion in a timely manner. *State v. Foti*, 11th Dist. No. 2009-L-163, 2010-Ohio-5931, ¶86.

{¶11} Therefore, we find that appellant has not satisfied the requirements of App.R. 5(A) and his present motion for leave to file a delayed appeal is hereby overruled.

{¶12} Appeal dismissed.

DIANE V. GRENDALL, J.,

MARY JANE TRAPP, J.,

concur.