

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2012-P-0074
CLARENCE E. LILLER,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Portage County Court of Common Pleas, Case No. 2010 CR 0832.

Judgment: Appeal dismissed.

Victor V. Viglucci, Portage County Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Clarence E. Liller, pro se, PID: A602800, Belmont Correctional Institution, P.O. Box 540, St. Clairsville, OH 43950 (Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} This matter is before this court on the pro se motion of appellant, Clarence E. Liller, for leave to file a delayed appeal pursuant to App.R. 5(A). Along with his motion, appellant filed his notice of appeal on July 9, 2012. Appellant is appealing the June 2, 2011 judgment issued by the Portage County Court of Common Pleas, sentencing him to serve eight years in prison for gross sexual imposition following a

guilty plea. Thus, appellant filed his notice of appeal approximately one year past the filing deadline.

{¶2} Appellee, the state of Ohio, did not file a brief or response in opposition to the motion.

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

{¶4} (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:

{¶5} (a) Criminal proceedings;

{¶6} * * *

{¶7} (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.

* * *

{¶8} In his motion, appellant asserts that his appeal is untimely because he was unaware of his right to appeal due to his belief that he waived such a right by pleading guilty. Appellant maintains at the time he entered his guilty plea, his counsel no longer represented him and did not ask appellant if he wished to appeal his sentence. Appellant further states that he is inexperienced in the legal system.

{¶9} A review of the written plea of guilty establishes that appellant did not entirely waive his right to appeal but instead waived the right only as it relates to issues that may have been raised at trial. Thus, appellant was not given an improper advisement regarding his right to appeal.

{¶10} While appellant's reasons might explain some lapse in time in initiating his direct appeal, they do not justify a delay of over one year between the time of appellant's sentence until the filing of his motion for delayed appeal. This court has denied applications for delayed appeals in circumstances similar to those in the instant case, in which appellant filed his motion and notice of appeal approximately one year past the filing deadline. See *State v. Latimore*, 11th Dist. No. 2010-A-0041, 2010-Ohio-5184, ¶9-10; *State v. Gaston*, 11th Dist. No. 2010-L-094, 2010-Ohio-5055, ¶9-10. We determine that appellant was not diligent in taking the proper steps to protect his own rights. Therefore, we find that appellant has not satisfied the requirements of App.R. 5(A) by asserting reasons that would justify his delay in filing an appeal.

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

{¶12} Appeal dismissed.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.