

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

STATE OF OHIO,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2011-P-0101</b>
LAWRENCE J. BOZEK,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2010 CR 0295.

Judgment: Appeal dismissed.

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

*Lawrence J. Whitney*, Lawrence J. Whitney Co., L.P.A., 137 South Main Street, Suite 201, Akron, OH 44308 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.,

{¶1} This matter is before this court on motion of appellant, Lawrence J. Bozek, to file a delayed appeal. Appellant filed said motion on December 1, 2011; however, appellant has not filed a notice of appeal. Appellant seeks to appeal the trial court's August 13, 2010 judgment convicting him of two counts of attempted murder, each count with a separate three-year firearm specification.

{¶2} No brief or memorandum in opposition to the motion has been filed.

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

{¶4} “(1)(a) 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 \* \* \* [c]riminal proceedings \* \* \*.

{¶5} “(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.”

{¶6} In his motion, appellant asserts the following as his reasons for failing to perfect a timely appeal: (1) he was not aware that he has a right to appeal until he met with his new counsel in August of 2011; and (2) he has moved expeditiously as possible in this case once he learned that he had a right to appeal.

{¶7} At the outset, we note that appellant has failed to comply with App.R. 5(A)(2) – that the movant, “[c]oncurrently with the filing of the motion, \* \* \* *shall* file with the clerk of the trial court a notice of appeal \* \* \* and *shall* file a copy of the notice of the appeal in the court of appeals.” (Emphasis added.) Further, given the length of time of approximately 16 months that has passed from the time of appellant’s conviction and 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 rights. As such, we find that appellant has neither satisfied the requirement of filing a notice of appeal nor has he provided this court with reasons to adequately justify waiting that length of time to

initiate a direct appeal, as required by App.R. 5(A). Appellant's motion for leave to file a delayed appeal is hereby overruled.

{¶8} Appeal dismissed.

MARY JANE TRAPP, J.,

THOMAS R. WRIGHT, J.,

concur.