

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2014-P-0029
LAWRENCE R. BURFITT,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2010 CR 0257.

Judgment: Appeal dismissed.

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

Lawrence R. Burfitt, pro se, PID: A604-092, Ohio State Penitentiary, 878 Coitsville-Hubbard Road, Youngstown, OH 44505 (Defendant-Appellant).

DIANE V. GRENDELL, J.

{¶1} This matter is before this court on the pro se motion for leave of appellant, Lawrence R. Burfitt, to file a delayed appeal, pursuant to App.R. 5(A). Along with his motion, appellant filed his notice of appeal on June 6, 2014. Appellant appeals from his conviction and sentence of August 9, 2011. That entry indicates that appellant pleaded guilty to the offense of aggravated murder, and the Portage County Court of Common Pleas sentenced him to life in prison, with eligibility for parole after serving 25 years.

{¶2} A timely notice of appeal from the August 9, 2011 judgment entry was due no later than September 8, 2011, which was not a weekend or a holiday. Appellant's notice of appeal was not filed until June 6, 2014, approximately two years and nine months beyond the due date.

{¶3} No brief or memorandum in opposition to appellant's motion has been filed.

{¶4} App.R. 4(A) states, in part:

{¶5} "A party shall file the notice of appeal required by App.R. 3 within thirty days of the later of entry of the judgment or order appealed * * *."

{¶6} App.R. 5(A) provides:

{¶7} "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:

{¶8} "(a) Criminal proceedings;

{¶9} "(b) Delinquency proceedings; and

{¶10} "(c) Serious youthful offender proceedings.

{¶11} "(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."

{¶12} In his motion, appellant generally asserts that prior to his arrival at Lorain Correctional Institution, he was forewarned of the possible danger of being jumped on

by other inmates which caused him to have “insecurity and uncertainty to seek appeal.” Appellant also asserts that he was “mentally unstable” and had “thoughts of suicide.”

{¶13} The reasons asserted by appellant might justify a reasonable time delay in filing his appeal. However, given the length of time of over two years and nine months that has passed from the time of appellant’s conviction and sentence until the filing of his notice of appeal and motion for delayed appeal, it is evident that appellant was not diligent in taking the proper steps to protect his own rights.

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

{¶15} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

THOMAS R. WRIGHT, J.,

concur.