

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

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| STATE OF OHIO, | : | MEMORANDUM OPINION |
| Plaintiff-Appellee, | : | |
| - vs - | : | CASE NO. 2017-A-0032 |
| TYRICE STACKHOUSE, | : | |
| Defendant-Appellant. | : | |

Criminal Appeal from the Court of Common Pleas, Case No. 2016 CR 00379.

Judgment: Appeal dismissed.

Nicholas A. Iarocci, Ashtabula County Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

Tyrice Stackhouse, pro se, PID: A693-560, Lake Erie Correctional Institution. P.O. Box 8000, 501 Thompson Road, Conneaut, OH 44030 (Defendant-Appellant).

THOMAS R. WRIGHT, J.

{¶1} On May 24, 2017, appellant, Tyrice Stackhouse, pro se, filed a Motion for Leave to File a Delayed Appeal pursuant to App.R. 5(A). No notice of appeal or docketing statement was filed with the trial court.

{¶2} Further, there was no judgment entry provided by appellant from which he appeals. However, the trial court docket reflects an entry time-stamped February 22, 2017, sentencing appellant to serve six years in prison after he entered a plea of guilty to trafficking in heroin.

{¶3} App.R. 5(A) provides:

{¶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} “(b) Delinquency proceedings; and

{¶7} “(c) Serious youthful offender proceedings.

{¶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. The movant also shall furnish an additional copy of the notice of appeal and a copy of the motion for leave to appeal to the clerk of the court of appeals who shall serve the notice of appeal and the motions upon the prosecuting attorney.*” (Emphasis added.)

{¶9} In the present case, appellant has not complied with App.R. 5(A) because he failed to file a notice of appeal in the trial court concurrently with the filing of his motion for leave to appeal. See *State v. Fisher*, 46 Ohio App.2d 279 (1975). In addition, appellant has not complied with Loc.R. 3(D)(2) of this court by attaching to such notice of appeal a copy of the judgment entry being appealed.

{¶10} In light of the foregoing, appellant’s present motion is procedurally defective, and he has failed to invoke this court’s jurisdiction.

{¶11} We note that appellant is not barred from filing a new motion for leave to appeal along with a notice of appeal that complies with the Ohio Rules of Appellate Procedure and the local rules of this court.

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

{¶13} Appeal dismissed.

TIMOTHY P. CANNON, J.

COLLEEN MARY O'TOOLE, J.,

concur.