

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

|                      |   |                              |
|----------------------|---|------------------------------|
| STATE OF OHIO,       | : | <b>MEMORANDUM OPINION</b>    |
| Plaintiff-Appellee,  | : |                              |
| - vs -               | : | <b>CASE NOS. 2018-P-0062</b> |
|                      | : | <b>2018-P-0063</b>           |
| DAVID A. NIXON,      | : |                              |
| Defendant-Appellant. | : |                              |

Criminal Appeals from the Court of Common Pleas, Case Nos. 2016 CR 00394 and 2016 CR 00496.

Judgment: Appeal dismissed.

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

*David A. Nixon*, pro se, Portage County Jail, 8240 Infirmary Road, Ravenna, OH 44266 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On August 22, 2018, appellant, pro se, filed a notice of appeal and motion for leave to file a delayed appeal. Appellant indicates that he is appealing from the trial court’s October 11, 2017 entry granting his motion for judicial release. The appeals are untimely filed by over nine months.

{¶2} No brief or response in opposition to appellant’s motion has been filed.

{¶3} App.R. 5(A) provides, 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} “(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. \* \* \*.”

{¶9} In his motion, appellant indicates that his reason for filing his appeals untimely is “based upon newly discovered judicial errors and abuse of discretion by the sentencing court that could not have been discovered by [him] within the time allowed by App.R. 4(A).” Appellant further contends that he discovered certain issues to appeal after reviewing a transcript that he received on another matter.

{¶10} We find that appellant’s assertion fails to explain what prevented him from appealing in a timely fashion, and it does not justify a delay of over nine months in filing his appeals.

{¶11} Thus, it is ordered that appellant’s motion for leave to file a delayed appeal is hereby overruled.

{¶12} Appeals dismissed.

THOMAS R. WRIGHT, P.J.,

TIMOTHY P. CANNON, J., concur.