

[Cite as *State v. McNeir*, 2002-Ohio-2831.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-02-1022

Appellee

Trial Court No. CR-99-2358

v.

James McNeir

DECISION AND JUDGMENT ENTRY

Appellant

Decided: June 7, 2002

* * * * *

Julia R. Bates, Lucas County Prosecuting
Attorney, and Eric A. Baum, Assistant
Prosecuting Attorney, for appellee.

James McNeir, pro se.

* * * * *

HANDWORK, J.

{¶1} This accelerated appeal is from the January 7, 2002 judgment of the Lucas County Court of Common Pleas which denied the petition for postconviction relief filed by appellant, James W. McNeir. Because we find that the postconviction relief petition was untimely filed, we affirm the decision of the lower court.

{¶2} Appellant's conviction and sentence in 1999 was affirmed by this court in 2000. Appellant filed a motion for postconviction relief on September 12, 2001. Since the trial transcript for the direct appeal was filed on January 28, 2000,

we find that appellant's petition was untimely. R.C. 2953.21(A)(2). Furthermore, appellant did not present any basis for considering his petition under R.C. 2953.23(A).

{¶3} Therefore, we find that appellant's petition for postconviction relief was untimely filed and that the trial court lacked subject matter jurisdiction to consider it. Appellant's assignments of error are found moot. Having found that the Lucas County Court of Common Pleas did not commit error prejudicial to appellant, the judgment of the court is affirmed. Pursuant to App.R. 24, appellant is hereby ordered to pay the court costs incurred on appeal.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4, amended 1/1/98.

Peter M. Handwork, J.

JUDGE

Melvin L. Resnick, J.

JUDGE

Richard W. Knepper, J.
CONCUR.

JUDGE