

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

State of Ohio

Court of Appeals No. WD-09-058

Appellee

Trial Court No. 08 CR 408

v.

William Brown, Jr.

DECISION AND JUDGMENT

Appellant

Decided: August 29, 2011

* * * * *

William D. Brown, Jr., pro se.

* * * * *

PER CURIAM.

{¶ 1} This matter is before the court on William Brown Jr.'s motion to vacate and re-enter our May 27, 2011 judgment denying his App.R. 26(B) application to reopen his appeal. For the reasons that follow, we deny Brown's motion.

{¶ 2} In *State v. Brown*, Wood County Court of Common Pleas case No. 08 CR 408, Brown was found guilty of aggravated robbery, robbery, three counts of kidnapping, grand

theft of a motor vehicle, and failure to comply with the order or signal of a police officer. On April 16, 2010, this court affirmed the decision of the trial court in part and reversed in part, remanding the case to the trial court solely to conduct a limited resentencing hearing in accordance with R.C. 2929.191 to include a five-year period of postrelease control. On March 1, 2011, Brown applied to reopen his appeal pursuant to App.R. 26(B), which this court denied as untimely on May 27, 2011.

{¶ 3} According to his motion to vacate and re-enter, Brown appealed our May 27, 2011 decision, but the Ohio Supreme Court denied the appeal because Brown failed to include with it a copy of our decision. Brown asserts that he did not include a copy of our decision because the clerk of courts did not serve it on him. Indeed, the record indicates that our May 27, 2011 decision was served on Brown's counsel for his direct appeal, even though Brown was no longer represented by counsel and had filed his App.R. 26(B) application pro se. Because, pursuant to S.Ct.Prac.R. 2.2(A)(4)(c), the provisions for delayed appeals are inapplicable to appeals involving App.R. 26(B), Brown now moves this court to vacate and re-enter our May 27, 2011 decision, and to order the clerk to properly serve him with a copy, so that he can timely appeal to the Ohio Supreme Court.

{¶ 4} App.R. 15(A) requires that a motion "state with particularity the grounds on which it is based." In support of his motion, Brown cites to "*State v. Spencer*, 6-11-96 Franklin 95-APA-12-1665 10th District" as a case which provided a similar remedy as the one requested by Brown. However, our search has failed to locate this case, and Brown has not provided us with a copy of it. Moreover, Brown has failed to provide us with any

documentation supporting his contention that he appealed our May 27, 2011 decision to the Ohio Supreme Court, and that this appeal was denied, or his contention that the correctional institution's mail log does not show any legal mail being delivered to Brown during the relevant time period.

{¶ 5} Therefore, because Brown has failed to state any identifiable legal authority on which his motion to vacate and re-enter our May 27, 2011 decision is based, and because he has failed to provide any evidence supporting his assertions, Brown's motion is hereby denied.

{¶ 6} It is so ordered.

MOTION DENIED.

Arlene Singer, J.

JUDGE

Thomas J. Osowik, P.J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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