

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

STATE OF OHIO,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2020-A-0020</b>
KYLE ROBERT CRYTZER,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2017 CR 00373.

Judgment: Dismissed.

*Cecilia M. Cooper*, Ashtabula County Prosecutor, and *Shelley M. Pratt*, Assistant Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

*Kyle Robert Crytzer*, pro se, PID# A753-828, Belmont Correctional Institution, 68518 Bannock Road, P.O. Box 540, St. Clairsville, OH 43950 (Defendant-Appellant).

MARY JANE TRAPP, J.

{¶1} Appellant, Kyle Robert Crytzer, pro se, filed a motion for leave to file a delayed appeal, pursuant to App.R. 5(A), on March 26, 2020. No notice of appeal was filed. In his motion, Mr. Crytzer indicates that he is appealing the trial court's October 5, 2018 entry denying a motion for new trial.

{¶2} A timely notice of appeal from the October 5 entry was due no later than November 5, 2018. Thus, the appeal is untimely by almost one year and five months.

{¶3} Appellee, the state of Ohio, filed a response opposing the motion on March 30, 2020.

{¶4} App.R. 4(A)(1) states in relevant part:

{¶5} “\* \* \* [A] party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry.”

{¶6} App.R. 5(A) provides:

{¶7} “(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:

{¶8} “(a) Criminal proceedings; \* \* \*

{¶9} “(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.”

{¶10} As reasons for his untimely appeal, Mr. Crytzer asserts that he has little to no experience in perfecting legal paperwork and has had to get assistance from inmate law clerks in the prison law library. Further, he contends that the library has been closed and unavailable for extended periods while he has been incarcerated at Belmont Correctional Institution.

{¶11} The record reflects that Mr. Crytzer perfected a previous appeal from the trial court’s October 5, 2018 sentencing entry in *State v. Crytzer*, 11th Dist. Ashtabula No. 2018-A-0077, 2019-Ohio-2285. As the state correctly notes, Mr. Crytzer had the

opportunity to also appeal the October 5, 2018 entry denying his motion for new trial in the course of his previous appeal. We agree, and find that the reasons set forth in Mr. Crytzer's motion are not convincing. Not only could Mr. Crytzer have appealed the denial of his motion for new trial in his previous appeal, but his reasons do not justify an almost one year and five month delay in filing the present appeal.

{¶12} Additionally, App.R. 5(A) requires that a notice of appeal be filed with the trial court concurrently with the filing of a motion for delayed appeal with this court. No notice of appeal was filed.

{¶13} For the foregoing reasons, Mr. Crytzer's motion for leave to file a delayed appeal is overruled.

{¶14} This matter is dismissed.

CYNTHIA WESTCOTT RICE, J.,

MATT LYNCH, J.,

concur.