

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY**

STATE OF OHIO,

Plaintiff-Appellee,

- v -

LEWIS C. POWELL, III,

Defendant-Appellant.

CASE NOS. 2022-T-0040
2022-T-0041

Criminal Appeals from the
Court of Common Pleas

Trial Court Nos. 2018 CR 0998
2019 CR 0675

MEMORANDUM
OPINION

Decided: May 23, 2022
Judgment: Appeals dismissed

Dennis Watkins, Trumbull County Prosecutor, and *Ryan J. Sanders*, Assistant Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481 (For Plaintiff-Appellee).

Rhys B. Cartwright-Jones, 42 North Phelps Street, Youngstown, OH 44503 (For Defendant-Appellant).

MARY JANE TRAPP, J.

{¶1} On May 4, 2022, appellant, through counsel, filed motions for leave to file a delayed appeal pursuant to App.R. 5(A) in Trumbull County C.P. No. 2018 CR 0998 and Trumbull County C.P. No. 2019 CR 0675. No notice of appeal was filed with the trial court in either trial court number.

{¶2} Attached to the motions are two trial court entries: a July 13, 2020 sentencing entry in 2018 CR 0998 and a December 31, 2019 sentencing entry in 2019 CR 0675.

{¶3} Appellee, the state of Ohio, filed responses in opposition to appellant's motions on May 12, 2022.

{¶4} App.R. 5(A) provides:

{¶5} “(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:

{¶6} “(a) Criminal proceedings; * * *

{¶7} “(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.)

{¶8} Appellant has not complied with App.R. 5(A) because he failed to file notices of appeal in the trial court concurrently with the filing of his motions for leave to appeal with this court. See *State v. Farhat*, 11th Dist. Portage No. 2021-P-0087, 2021-Ohio-3487; *State v. Anderson*, 11th Dist. Lake No. 2019-L-169, 2020-Ohio-735; *State v. Fisher*, 46 Ohio App.2d 279 (1975).

{¶9} Thus, appellant's motions are overruled, and the appeals are dismissed.

{¶10} We note that appellant is not barred from filing new motions for leave to file a delayed appeal along with notices of appeal that comply with the Ohio Rules of Appellate Procedure and the local rules of this court.

THOMAS R. WRIGHT, P.J.,

JOHN J. EKLUND, J.,

concur.