

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

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

PAUL A. WYATT, III,

Defendant-Appellant.

CASE NO. 2024-L-020

Criminal Appeal from the
Court of Common Pleas

Trial Court No. 2023 CR 000047

MEMORANDUM
OPINION

Decided: April 9, 2024
Judgment: Dismissed

Charles E. Coulson, Lake County Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

Paul A. Wyatt, III, pro se, PID# A804-763, Correctional Reception Center, 11271 State Route 762, P.O. Box 300, Orient, OH 43146 (Defendant-Appellant).

EUGENE A. LUCCI, P.J.

{¶1} On March 13, 2024, appellant, Paul A. Wyatt, III, pro se, filed a motion for leave to file a delayed appeal pursuant to App.R. 5(A). No notice of appeal was filed with the Lake County Court of Common Pleas.

{¶2} App.R. 5(A) provides:

{¶3} “(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:

{¶4} “(a) Criminal proceedings;

{¶5} “(b) Delinquency proceedings; and

{¶6} “(c) Serious youthful offender 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 a notice of appeal in the trial court concurrently with the filing of his motion for leave to appeal with this court. See *State v. Dougherty*, 11th Dist. Geauga No. 2023-G-0045, 2023-Ohio-4874; *State v. Fisher*, 46 Ohio App.2d 279 (1975).

{¶9} Thus, appellant’s pro se motion is overruled. This matter is dismissed.

{¶10} We note that appellant is not barred from filing a new motion for leave to appeal along with a notice of appeal that complies with the Ohio Rules of Appellate Procedure.

MATT LYNCH, J.,

JOHN J. EKLUND, J.,

concur.