

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

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

MICHAEL RUSSELL TENNEY,

Defendant-Appellant.

CASE NO. 2024-T-0028

Criminal Appeal from the
Court of Common Pleas

Trial Court No. 2017 CR 00159

MEMORANDUM
OPINION

Decided: April 29, 2024
Judgment: Dismissed

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

Michael Russell Tenney, pro se, PID# A704-630, Trumbull Correctional Institution, 5701 Burnett Street, P.O. Box 901, Leavittsburg, OH 44430 (Defendant-Appellant).

MARY JANE TRAPP, J.

{¶1} On April 1, 2024, appellant, Michael Russell Tenney, pro se, filed a “Motion for Leave of Appeal,” construed as a motion for leave to file a delayed appeal pursuant to App.R. 5(A).

{¶2} No notice of appeal was filed with the Trumbull County Court of Common Pleas, and no judgment entry being appealed was provided. However, appellant indicates that he appeals the trial court’s February 21, 2024 entry denying his motion for a final appealable order.

{¶3} Appellee, the state of Ohio, filed a response in opposition to the motion on April 3, 2024.

{¶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 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, and this matter is dismissed.

EUGENE A. LUCCI, P.J.,

MATT LYNCH, J.,

concur.