

[Cite as *State v. McClain*, 2005-Ohio-923.]

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

State of Ohio

Court of Appeals No. WD-05-011

Appellee

Trial Court No. 03-CR-466

v.

Marlon McClain

**DECISION AND JUDGMENT ENTRY**

Appellant

Decided: March 1, 2005

\* \* \* \* \*

Sarah A.. Nation, for appellant.

\* \* \* \* \*

PER CURIAM.

{¶1} This case is before the court sua sponte. Appellant filed a notice of appeal on February 8, 2005 from an order of the trial court that was entered on the court's journal on December 22, 2004. Appellant also filed, in the trial court, a motion for delayed appeal pursuant to App.R. 5(A). On February 14, 2005, the trial court judge granted appellant's motion for delayed appeal. App.R. 5(A) states:

{¶2} "(A) Motion by defendant for delayed appeal.

{¶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[.]” (Emphasis added.)

{¶5} The trial court does not have jurisdiction to rule on an App.R. 5(A) motion. This court has not granted defendant leave to file an appeal. Accordingly, this appeal is ordered dismissed at appellant’s costs.

APPEAL DISMISSED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4, amended 1/1/98.

Mark L. Pietrykowski, J.

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JUDGE

Arlene Singer, P.J.

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JUDGE

Dennis M. Parish, J.  
CONCUR.

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JUDGE