

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	
	:	Hon. John W. Wise, P.J.
Plaintiff-Appellee	:	Hon. Julie A. Edwards, J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	
	:	Case No. 11-CA-42
DAVID DUNKLE	:	
	:	
	:	
Defendant-Appellant	:	<u>O P I N I O N</u>

CHARACTER OF PROCEEDING: Appeal from the Licking County Court of
Common Pleas Case No. 86-CR-16341

JUDGMENT: DISMISSED

DATE OF JUDGMENT ENTRY: December 19, 2011

APPEARANCES:

For Defendant-Appellant:

David Dunkle (Pro se)
Inmate No. R138-316
Marion Correctional Institution
P.O. Box 57
Marion, Ohio 43302

For Plaintiff-Appellee:

KENNETH W. OSWALT
Licking County Prosecutor
20 South Second Street
Newark, Ohio 43055

Delaney, J.

{¶1} In 1986, Defendant-Appellant David Dunkle was sentenced in the Licking County Court of Common Pleas to consecutive life sentences for multiple counts of rape.

{¶2} On December 8, 2010, Appellant filed a pro se motion to suspend his sentence. On December 15, 2010, the trial court construed the motion as one for judicial release pursuant to R.C. 2929.20 and overruled the motion. On February 15, 2011, Appellant filed a motion for reconsideration. The trial court denied the motion on March 18, 2011.

{¶3} Appellant filed a timely appeal and raises one Assignment of Error:

{¶4} “I. TRIAL COURT IMPROPERLY DISMISSED RELIEF SOUGHT.”

I.

{¶5} We note this case comes to us on the accelerated calendar. App.R. 11.1, which governs accelerated calendar cases, provides, in pertinent part:

{¶6} “(E) Determination and judgment on appeal. The appeal will be determined as provided by App.R. 11.1. It shall be sufficient compliance with App.R. 12(A) for the statement of the reason for the court’s decision as to each error to be in brief and conclusionary form. The decision may be by judgment in which case it will not be published in any form.”

{¶7} This appeal shall be considered in accordance with the aforementioned rule. We also note Plaintiff-Appellee did not file a responsive brief.

{¶8} Appellant appears to have sought and was denied judicial release in the trial court. Appellant then requested that the trial court reconsider its ruling.

{¶9} We first note that the denial of a motion for judicial release is not a final appealable order, as R.C. 2929.20 makes no provision for appellate review of a ruling on such a motion. See also, *State v. Williams*, 10th Dist. No. 07AP-1035, 2008-Ohio-1906. In addition, there is no authority for filing a motion for reconsideration of a judgment at the trial court level in a criminal case.

{¶10} For these reasons, the present appeal is, sua sponte, dismissed.

By: Delaney, J.

Wise, P.J. and

Edwards, J. concur.

HON. PATRICIA A. DELANEY

HON. JOHN W. WISE

HON. JULIE A. EDWARDS

IN THE COURT OF APPEALS FOR LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	
	:	
Plaintiff-Appellee	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
DAVID DUNKLE	:	
	:	
Defendant-Appellant	:	Case No. 11-CA-42
	:	

For the reasons stated in our accompanying Memorandum-Opinion on file, this appeal is dismissed. Costs assessed to Appellant.

HON. PATRICIA A. DELANEY

HON. JOHN W. WISE

HON. JULIE A. EDWARDS