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**IN THE
COURT OF APPEALS OF INDIANA**

ANTON LIGONS,)
)
 Appellant-Petitioner,)
)
 vs.) No. 48A05-0706-CR-00301
)
 STATE OF INDIANA,)
)
 Appellee-Respondent.)

APPEAL FROM THE MADISON CIRCUIT COURT
The Honorable Fredrick Spencer, Judge
Cause No. 48C01-9909-CF-238

December 3, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-petitioner Anton Ligons appeals the denial of his motion for relief from judgment regarding his request to file a belated appeal. Specifically, Ligons argues that the trial court abused its discretion in determining that he did not pursue a remedy under Indiana Trial Rule 60(B) within a reasonable time. Finding that the trial court properly denied Ligons's motion for relief from judgment, we affirm.

FACTS

On September 29, 1999, Ligons was charged with two counts of dealing in cocaine—one as a class A felony and the other as a class B felony. On that day, Ligons was informed that his trial was set for February 1, 2000. Thereafter, Ligons fled the jurisdiction and was tried in absentia on both counts at a jury trial that concluded on February 10, 2000. Ligons was subsequently sentenced in absentia on July 26, 2000.

On December 14, 2004, Ligons filed a verified petition for belated appeal, and the trial court conducted a hearing on the petition on January 12, 2005. On October 17, 2005, the trial court issued findings of fact and conclusions of law and ordered that Ligons be permitted to pursue a belated appeal. However, following an objection by the State, the trial court issued a subsequent order the next day denying Ligons's petition.

The trial court conducted a subsequent hearing, and Ligons's counsel was permitted to investigate Ligons's culpability in the delay in filing a notice of appeal. A third hearing was conducted on February 27, 2006, and evidence was presented that Ligons was incarcerated in Michigan from October 2000 until March 2004. The trial court determined that this period of incarceration commenced approximately three months after Ligons had been sentenced in

this case. As a result, the trial court denied Ligons's petition to file a belated appeal.

On April 11, 2007, Ligons filed a motion pursuant to Indiana Trial Rule 60(B), requesting the trial court to set aside the order of February 27, 2006, and to issue a new order permitting him to file a notice of appeal. That same day, the trial court denied Ligons's Trial Rule 60(B) motion and directed him to the State Public Defender. Ligons now appeals the trial court's denial of his Trial Rule 60(B) motion.

DISCUSSION AND DECISION

A ruling on a Trial Rule 60(B) motion for relief from judgment is left to the trial court's sound discretion. State v. Willits, 773 N.E.2d 808, 811 (Ind. 2002). Moreover, such motions fall within the equitable discretion of the court, and our review of the grant or denial thereof is limited to whether the trial court abused its discretion. S.E. v. State, 744 N.E.2d 536, 538 (Ind. Ct. App. 2001). An abuse of discretion does not occur unless the decision of the trial court "is clearly against the logic and effect of the facts and circumstances before it, or the reasonable inferences to be drawn therefrom." Id.

Indiana Trial Rule 60(B)(8) provides that "on motion and upon such terms as are just the court may relieve a party or his legal representative from [a] final order . . . for . . . [a]ny reason justifying relief from the operation of the judgment."¹ This provision "gives broad equitable powers to the trial court in the exercise of its discretion." Freshwater v. State, 834 N.E.2d 1133, 1136 (Ind. Ct. App. 2005), trans. denied. However, "[t]o invoke the residual powers of T.R. 60(B)(8), a movant must show that the proceedings were commenced within

a reasonable time.” Id. What constitutes a reasonable time is determined by examining “the length of time that elapsed from the date of the judgment to the date of the filing of the T.R. 60 motion, the circumstances of the delay, the diligence exercised by the movant, and the possibility of prejudice to the opposing party.” Id.

As noted above, Ligons was in court on February 27, 2006, when the trial court denied his petition to file a belated appeal. Appellant’s App. p. 105-06. Nonetheless, Ligons did not file a motion for relief from judgment for an additional thirteen months. Although Ligons contends that he was unaware that his counsel did not file a notice of appeal after the trial court denied his request for permission to pursue a belated appeal, he has failed to show why he did not make inquiry about the status of the appeal at an earlier date. Thus, we cannot say that the trial court abused its discretion in denying Ligons’s motion for relief from judgment. See Freshwater, 834 N.E.2d at 1137 (finding that the failure to explain why a delay was reasonable foreclosed the grant of the defendant’s Trial Rule 60(B)(8) motion).

The judgment of the trial court is affirmed.

DARDEN, J., and BRADFORD, J., concur.

¹ As Indiana Trial Rule 60(B)(8) provides the broadest grounds for relief, we assume that this is the section under which Ligons has chosen to proceed.