

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY, OHIO**

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2012-A-0023
KENNETH L. THRESS,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 12671.

Judgment: Appeal dismissed.

Thomas L. Sartini, Ashtabula County Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

Kenneth L. Thress, pro se, PID: A214245, Marion Correctional Institution, P.O. Box 57, Marion, OH 43302 (Defendant-Appellant).

MARY JANE TRAPP, J.

{¶1} This matter is before this court on the pro se motion of appellant, Kenneth L. Thress, for leave to file a delayed appeal. Along with his motion, appellant filed his notice of appeal on June 14, 2012. Appellant is appealing the trial court's September 12, 1989 judgment convicting him of rape, felonious sexual penetration, and gross sexual imposition and sentencing him to serve up to 50 years in prison. Thus, appellant's appeal was filed approximately 23 years after his September 12, 1989 conviction and sentence.

{¶2} Appellee, the state of Ohio, filed a response in opposition to appellant's motion on June 22, 2012. The state maintains that appellant failed to set forth a valid reason justifying his tardiness in filing a notice of appeal.

{¶3} App.R. 5(A) provides, in relevant part:

{¶4} “(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:

{¶5} “(a) Criminal proceedings;

{¶6} “* * *

{¶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. * * *”

{¶8} In his motion, appellant asserts as his reason for failing to perfect a timely appeal that the trial court and/or his trial counsel failed to inform him of his right to appeal.

{¶9} Given the length of time that has passed from the time of appellant's conviction and sentence until the filing of his motion for delayed appeal, it is evident that appellant was not diligent in taking the proper steps to protect his own rights. In addition, the reason submitted by appellant as the cause for the delay does not justify waiting 23 years to initiate a direct appeal. Therefore, we find that appellant has not satisfied the requirements of App.R. 5(A).

{¶10} Accordingly, it is ordered that appellant's motion for leave to file a delayed appeal is hereby overruled.

{¶11} Appeal dismissed.

TIMOTHY P. CANNON, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.