

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2014-P-0072
JEFFREY L. LEWIS, JR.,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Portage County Court of Common Pleas.
Case No. 2014 CR 00064.

Judgment: Appeal dismissed.

Victor Vigluicci, Portage County Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Jeffrey L. Lewis, Jr., pro se, PID: A653-971, Belmont Correctional Institution, P.O. Box 540, 68518 Bannock Road, St. Clairsville, OH 43950 (Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} On December 18, 2014, appellant, Jeffrey L. Lewis, Jr., pro se, filed a motion for leave to file a delayed appeal pursuant to App.R. 5(A) with this court and a notice of appeal with the trial court. On the notice of appeal, appellant indicates that he is appealing from a November 15, 2014 judgment of conviction of the trial court. However, in reviewing the trial court docket, there is no November 15, 2014 trial court entry of conviction. Instead, it appears that appellant was convicted and sentenced on May 15, 2014. Thus, his notice of appeal was untimely filed by approximately six months.

{¶2} No brief or memorandum in opposition to appellant's pro se motion has been filed.

{¶3} App.R. 4(A) states:

{¶4} "A party shall file the notice of appeal required by App.R. 3 within thirty days of the later of entry of the judgment or order appealed * * *."

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

{¶6} "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:

{¶7} "(a) Criminal proceedings;

{¶8} "(b) Delinquency proceedings; and

{¶9} "(c) Serious youthful offender proceedings.

{¶10} "(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.* * * *." (Emphasis added.)

{¶11} In reviewing appellant's motion, the reasons for his failure to file a timely appeal are unclear. In fact, there does not appear to be any viable reasons that relate to appellant's inability to file his appeal within thirty days from his conviction and sentence. Appellant asserts in his motion constitutional arguments regarding due process, equal protection and a fair trial. Additionally, he asserts "[e]ffective [c]ounsel did not allow for proper Notice of Appeal."

{¶12} Clearly setting forth one's reasons for filing a late appeal in the motion for leave is a fundamental requirement under App.R. 5(A). When the motion does not comply with the basic requirements of the rule by furnishing reasons for the delay, we

cannot determine whether the delay was justified and ultimately decide whether leave should be granted based on those reasons.

{¶13} Since appellant's present motion is procedurally flawed, he has failed to invoke this court's jurisdiction. Thus, appellant's motion for leave to file a delayed appeal is hereby overruled, and the appeal is dismissed as untimely pursuant to App.R. 4(A).

{¶14} Appeal dismissed.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.