

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

STATE OF OHIO,	:	MEMORANDUM OPINION
	:	
Plaintiff-Appellee,	:	CASE NO. 2016-P-0052
	:	
- vs -	:	
	:	
CHRIS H. GOTSHALL,	:	
	:	
Defendant-Appellant.	:	

Criminal Appeal from the Portage County Court of Common Pleas, Case No. 2014 CR 00773.

Judgment: Appeal dismissed.

Victor V. Vigluicci, Portage County Prosecutor, and *Kristina Reilly*, Assistant Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Chris H. Gotshall, pro se, PID: A672-604, Lake Erie Correctional Institution, P.O. Box 8000, 501 Thompson Road, Conneaut, OH 44030 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} On August 16, 2016, appellant, Chris H. Gotshall, pro se, filed a Motion for Leave to File a Delayed Appeal, pursuant to App.R. 5(A). No notice of appeal was filed with the trial court, and no judgment entry for which appellant is appealing was provided.

{¶2} Appellant references in his motion a previous appeal of his conviction and sentence in *State of Ohio v. Chris H. Gotshall*, 11th Dist. No. 2015-P-0057, which was decided by this court on May 23, 2016. In particular, the motion appears to be setting forth an ineffective assistance of appellate counsel claim from appellant’s prior appeal. He also requests

in the motion that counsel be appointed and an evidentiary hearing so that he can present new evidence to prove that his conviction “was a travesty to our due process and due diligence under the laws of the great land.”

{¶3} App.R. 5(A) provides in 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} “(b) Delinquency proceedings; and

{¶7} “(c) Serious youthful offender proceedings.

{¶8} “(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. * * *.”

{¶9} It appears that appellant is attempting to utilize App.R. 5(A) to reopen his previous appeal and have an evidentiary hearing to present new evidence. Neither of the foregoing can be accomplished through an App.R. 5(A) motion for leave to file a delayed appeal.

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

{¶11} Appeal dismissed.

CYNTHIA WESTCOTT RICE, P.J.,

THOMAS R. WRIGHT, J.,

concur.