

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2019-L-018
KENNY LEWIS a.k.a. KENY LEWIS	:	
a.k.a. KENYATTA LEWIS,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2010 CR 000649.

Judgment: Appeal dismissed.

Charles E. Coulson, Lake County Prosecutor, and *Karen A. Sheppert*, Assistant Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

Kenny Lewis, pro se, PID: A594-271, Marion Correctional Institution, 940 Marion-Williamsport Road, P.O. Box 57, Marion, OH 43302 (Defendant-Appellant).

MARY JANE TRAPP, J.

{¶1} Appellant, Kenny Lewis, pro se, moves this court for a delayed appeal. Along with his motion, appellant filed his notice of appeal on February 26, 2019. Appellant indicates that he is appealing from the trial court’s “December 15, 2010 Judgement (sic) Entry of Sentence,” which he attached to his notice.

{¶2} Appellee, the state of Ohio, filed a response in opposition to the motion, and appellant filed a pro se reply to the opposition.

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

{¶4} “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 * * *.”

{¶5} The state correctly contends that appellant has previously appealed the December 15, 2010 sentencing entry in *State v. Lewis*, 11th Dist. Lake No. 2011-L-004, 2011-Ohio-4700, which was decided on September 16, 2011. In his appeal as of right, Mr. Lewis raised one assignment of error claiming the trial court erred by sentencing him to the maximum, consecutive term of imprisonment.

{¶6} An App.R. 5(A) delayed appeal cannot be utilized to file successive appeals from the same judgment. See *State v. Haynes*, 111 Ohio App.3d 244, 245 (1996); *State v. Melton*, 11th Dist. Lake No. 2016-L-073, 2016-Ohio-7444, ¶ 9; *State v. Cioffi*, 11th Dist. Trumbull Nos. 2009-T-0065 and 2009-T-0066, 2009-Ohio-4932 at ¶ 10; *State v. Perry*, 11th Dist. Trumbull No. 2008-T-0127, 2009-Ohio-1320 at ¶ 5.

{¶7} Because appellant timely appealed the December 15, 2010 sentencing entry resulting in a full opinion by this court affirming the trial court’s decision on the merits, an untimely appeal from the same judgment is not available to appellant through App.R. 5(A). Thus, appellant’s pro se motion for leave to file a delayed appeal is hereby overruled, and the appeal is dismissed.

THOMAS R. WRIGHT, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.