

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2019-P-0112
KEITH A. THREATT,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2017 CR 00381.

Judgment: Dismissed.

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

Keith A. Threatt, pro se, PID# 760-996, Lake Erie Correctional Institution, 501 Thompson Road, P.O. Box 8000, Conneaut, OH 44030 (Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} On December 16, 2019, appellant, Keith A. Threatt, pro se, filed a motion for leave to file a delayed appeal, pursuant to App.R. 5(A). No notice of appeal was filed in the trial court.

{¶2} App.R. 5(A) provides:

{¶3} “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:

{¶4} “(a) Criminal proceedings;

{¶5} “(b) Delinquency proceedings; and

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

{¶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. * * *.*” (Emphasis added.)

{¶8} In the present case, appellant’s motion is procedurally defective because he failed to file a notice of appeal in the trial court concurrently with the filing of his motion for leave to appeal in this court.

{¶9} Accordingly, appellant’s motion is hereby overruled, and this matter is dismissed.

{¶10} We note that appellant is not barred from filing a new motion for leave to file a delayed appeal, along with a notice of appeal, which complies with the rules of court.

THOMAS R. WRIGHT, J.,

MATT LYNCH, J.,

concur.