[Cite as State v. McNeir, 2002-Ohio-2831.]

IN THE COURT OF APPEALS OF OHIO SIXTH APPELLATE DISTRICT LUCAS COUNTY

State of OhioCourt of Appeals No. L-02-1022AppelleeTrial Court No. CR-99-2358

v.

James McNeir

DECISION AND JUDGMENT ENTRY

Appellant Decided: June 7, 2002

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and Eric A. Baum, Assistant Prosecuting Attorney, for appellee.

James McNeir, pro se.

* * * * *

HANDWORK, J.

{¶1} This accelerated appeal is from the January 7, 2002
judgment of the Lucas County Court of Common Pleas which denied
the petition for postconviction relief filed by appellant, James
W. McNeir. Because we find that the postconviction relief
petition was untimely filed, we affirm the decision of the lower
court.

{¶2} Appellant's conviction and sentence in 1999 was affirmed by this court in 2000. Appellant filed a motion for postconviction relief on September 12, 2001. Since the trial transcript for the direct appeal was filed on January 28, 2000, we find that appellant's petition was untimely. R.C. 2953.21(A)(2). Furthermore, appellant did not present any basis for considering his petition under R.C. 2953.23(A).

{¶3} Therefore, we find that appellant's petition for postconviction relief was untimely filed and that the trial court lacked subject matter jurisdiction to consider it. Appellant's assignments of error are found moot. Having found that the Lucas County Court of Common Pleas did not commit error prejudicial to appellant, the judgment of the court is affirmed. Pursuant to App.R. 24, appellant is hereby ordered to pay the court costs incurred on appeal.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4, amended 1/1/98.

Peter M. Handwork, J.

Melvin L. Resnick, J.

JUDGE

Richard W. Knepper, J. CONCUR.

JUDGE

JUDGE