

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Pesci v. Goodrich*, Slip Opinion No. 2012-Ohio-4540.]

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2012-OHIO-4540

PESCI, APPELLANT, v. GOODRICH,¹ WARDEN, ET AL., APPELLEES.

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Appellate procedure—Untimely appeal dismissed—S.Ct.Prac.R. 2.2(A)(1).

(No. 2012-0987—Submitted September 25, 2012—Decided
October 3, 2012.)

APPEAL from the Court of Appeals for Ashtabula County, No. 2011-A-0049.

Per Curiam.

{¶ 1} We dismiss the appeal of appellant, James Pesci, from the judgment of the court of appeals dismissing his petition for a writ of habeas corpus because he failed to file a timely notice of appeal from the judgment. S.Ct.Prac.R. 2.2(A)(1)(a) (“To perfect an appeal from a court of appeals to the Supreme Court, * * * the appellant shall file a notice of appeal in the Supreme

1. Since this case was instituted, Barry Goodrich has succeeded Richard Gansheimer as the warden of Lake Erie Correctional Institution and is substituted as a party in this appeal. *See State ex rel. Cincinnati Enquirer v. Craig*, 132 Ohio St.3d 68, 2012-Ohio-1999, 969 N.E.2d 243, fn. 1; *see also* Civ.R. 25(D)(1).

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Court within forty-five days from the entry of the judgment being appealed”). Pesci’s Civ.R. 60(B) motion for relief from judgment did not extend his time to appeal the judgment, and Pesci could not use Civ.R. 60(B) as a substitute for a timely appeal. *State ex rel. Manuel v. Stenson*, 126 Ohio St.3d 52, 2010-Ohio-2673, 930 N.E.2d 310, citing *State ex rel. Martin v. Ohio Adult Parole Auth.*, 124 Ohio St.3d 63, 2009-Ohio-6164, 918 N.E.2d 1005.

Appeal dismissed.

O’CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O’DONNELL, LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

James Pesci, pro se.
