

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

City of Columbus,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	No. 07AP-519
	:	(M.C. No. 2006 TRD 193664)
Christina Cardwell,	:	
	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on August 9, 2007

Richard C. Pfeiffer, Jr., City Attorney, *Lara N. Baker*, Chief Prosecutor, and *Matthew A. Kanai*, for appellee.

Yeura R. Venters, Public Defender, and *Paul Skendelas*, for appellant.

ON MOTION FOR LEAVE TO APPEAL

TYACK, J.

{¶1} On May 1, 2007, appellant, Christina Cardwell, was found guilty of hit-skip and assured clear distance ahead following a court trial. The judgment entry journalizing the trial court's judgment and sentence was filed May 2, 2007.

{¶2} On June 21, 2007, the office of the Franklin County Public Defender filed a motion for leave to appeal. The city of Columbus, who prosecuted the case, was not served a copy of the motion. Instead, a copy was sent to the office of the Franklin County

Prosecuting Attorney. App.R. 5(A) places the duty of serving the motion upon the clerk for the court of appeals.

{¶3} The motion references an affidavit which has not been provided and an explanation as to why this appeal was not timely filed. Such an affidavit is not required by App.R. 5(A).

{¶4} Counsel on behalf of appellant has indicated that "the paperwork was not timely processed and docketed within the Public Defender office," which resulted in the appeal not being filed on time. Because the motion was filed only 20 days late and the mistakes which have been made are the mistakes of appointed appellate counsel, not the appellant, the motion is sustained.

Motion for leave to appeal granted.

BROWN and McGRATH, JJ., concur.
