

OHIO COURT OF APPEALS, ELEVENTH APPELLATE DISTRICT, PORTAGE COUNTY

State of Ohio v. Deolia A. Day a.k.a. Deolia A. Perry

2026 Ohio 316 (Ohio Ct. App. 11th Dist. 2026) · No. 2025-P-0063 · Decided February 2, 2026

SUMMARY

The Ohio Eleventh District Court of Appeals dismissed Deolia A. Day’s criminal appeal as untimely. The court overruled her motion for leave to file a delayed appeal, concluding that she did not provide a valid reason for waiting more than a year after sentencing to appeal.

CASE DETAILS

COURT	Ohio Court of Appeals, Eleventh Appellate District, Portage County
WRITING FOR THE COURT	Matt Lynch, P.J.; John J. Eklund, J.; Eugene A. Lucci, J.
JURISDICTION	Ohio Court of Appeals, Eleventh Appellate District, Portage County
DECIDED	February 2, 2026
DOCKET	2025-P-0063
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant appealed from a criminal conviction and sentence and moved for leave to file a delayed appeal under Ohio Appellate Rule 5(A).
STANDARD OF REVIEW	The court reviewed whether the defendant demonstrated a valid reason under Ohio Appellate Rule 5(A) for failing to file a timely notice of appeal.
PRECEDENTIAL VALUE	published
PARTIES	Deolia A. Day a.k.a. Deolia A. Perry v. State of Ohio

TOPICS

- appellate procedure
- criminal procedure
- final judgment rule

PRACTICE AREAS

- criminal appellate procedure
- delayed appeals

QUESTIONS PRESENTED

1. Whether Day established a valid reason under Ohio Appellate Rule 5(A) for failing to file a notice of appeal within thirty days of the March 13, 2024 judgment.
2. Whether the appeal should be dismissed as untimely when the defendant's written guilty plea acknowledged her appellate rights and the delay exceeded one year.

HOLDINGS

1. A notice of appeal from the final criminal judgment was required to be filed within thirty days of the March 13, 2024 entry.
2. Day failed to establish a valid reason for the more-than-one-year delay, and the court therefore overruled her motion for leave to file a delayed appeal.

KEY QUOTATIONS

“ “[A] party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry.” ” (¶ 3)

“ Accordingly, appellant’s motion for leave to file a delayed appeal is overruled, and the appeal is hereby dismissed.” (¶ 11)

FACTUAL BACKGROUND

Day pleaded guilty on February 5, 2024, and was sentenced in an entry issued on March 13, 2024. She did not file a notice of appeal within the thirty-day period and instead sought a delayed appeal approximately one year and five months later, asserting inadequate counsel, lack of understanding of her plea negotiations and appellate rights, and lack of opportunity and guidance.

PROCEDURAL HISTORY

Day filed a notice of appeal and motion for leave to file a delayed appeal on September 10, 2025. Although she identified a September 1, 2025 judgment, the trial-court docket showed that the relevant conviction and sentence entry was issued on March 13, 2024. The Court of Appeals concluded that the appeal was approximately one year and five months late, that Day had not shown a valid reason for the delay, overruled the motion, and dismissed the appeal.

DISPOSITION

dismissed

OPINION

PER CURIAM.

[Cite as State v. Day, 2026-Ohio-316.] IN THE COURT OF APPEALS OF OHIO ELEVENTH APPELLATE DISTRICT PORTAGE COUNTY STATE OF OHIO, CASE NO. 2025-P-0063 Plaintiff-Appellee, Criminal Appeal from the - vs - Court of Common Pleas DEOLIA A. DAY

a.k.a. DEOLIA A. PERRY, Trial Court No. 2023 CR 01188 C Defendant-Appellant. MEMORANDUM OPINION AND JUDGMENT ENTRY Decided: February 2, 2026 Judgment: Appeal dismissed Connie J. Lewandowski, Portage County Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Deolia A. Day, pro se, PID# W112-879, Ohio Reformatory for Women, 1479 Collins Avenue, Marysville, OH 43040 (Defendant-Appellant). MATT LYNCH, P.J. {¶1} On September 10, 2025, appellant, Deolia A. Day, filed a pro se notice of appeal and motion for leave to file a delayed appeal pursuant to App.R. 5(A). No response in opposition was filed. {¶2} On her notice of appeal, appellant indicates that she seeks to appeal from the trial court's September 1, 2025 judgment of conviction and sentence.

However, upon a review of the trial court's docket, it appears that the entry was issued on March 13, 2024. A timely notice of appeal from the March 13, 2024 entry was due no later than April 12, 2024, which was not a holiday or weekend.

The appeal is untimely by approximately 1 year and 5 months. {¶3} "[A] party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry." App.R. 4(A)(1). {¶4} App.R. 5(A)(1) states: {¶5} "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: {¶6} "(a) Criminal proceedings..." {¶7} App.R.

5(A)(2) further provides that "[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." {¶8} In her motion for leave, as reasons for failing to file a timely appeal, appellant states that she did not have adequate counsel and she did not understand her plea negotiations or her appellate rights.

Appellant further states that she "lacked opportunity and guidance toward filing a timely appeal." {¶9} The "Written Plea of Guilty" signed by appellant on February 5, 2024, includes an acknowledgement that she understood that she did not lose all of her rights to appeal by entering a plea of guilty and that any appeal in a criminal case must be filed within 30 days after sentencing. {¶10} Pursuant to the "Written Plea of Guilty," appellant was advised of and understood her appellate rights.

Further, while lack of opportunity and guidance might PAGE 2 OF 4 Case No. 2025-P-0063 justify a reasonable delay of time in filing an appeal, given the length of time of over a year before initiating an appeal, it is evident that appellant was not diligent in taking the proper steps to protect her own rights.

Therefore, we find that appellant has failed to set forth a valid reason for filing the appeal more than one year after she was sentenced and well beyond the 30-day time period prescribed in

App.R. 4(A)(1). ¶11 Accordingly, appellant's motion for leave to file a delayed appeal is overruled, and the appeal is hereby dismissed. JOHN J. EKLUND, J., EUGENE A. LUCCI, J., concur.

PAGE 3 OF 4 Case No. 2025-P-0063 JUDGMENT ENTRY For the reasons stated in the memorandum opinion of this court, it is ordered that appellant's motion for leave to file a delayed appeal is overruled, and the appeal is hereby dismissed. Any pending motions are hereby overruled as moot. Costs to be taxed against appellant. PRESIDING JUDGE MATT LYNCH JUDGE JOHN J. EKLUND, concurs JUDGE EUGENE A. LUCCI, concurs THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.

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