

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO.	C-250570
	:	TRIAL NO.	B-1401726
Plaintiff-Appellee,	:		
vs.	:		
	:		<i>JUDGMENT ENTRY</i>
JAMES BELL,	:		
Defendant-Appellant.	:		

NESTOR, Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court’s accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

In May 2016, defendant-appellant James Bell was found guilty of various felony offenses and accompanying specifications after a jury trial including aggravated burglary, aggravated robbery, felonious assault, kidnapping, and having weapons while under disability. The trial court imposed an aggregate sentence of 52 years in prison. Bell’s convictions were affirmed on direct appeal. *State v. Bell*, 2017-Ohio-8959 (1st Dist.).

In July 2025, Bell filed a motion for leave to file a delayed motion for a new trial along with a motion for a new trial. He maintained that one of the jurors who sat on his trial (“Juror #1”) contacted him and indicated that he (Juror #1) had undisclosed felony convictions when he served on Bell’s jury nearly a decade prior. Per Bell, this rendered Juror #1 ineligible to serve and would have supported a challenge

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for cause. Bell further alleged that another juror (“Juror #2”) informed him that an unknown Caucasian male—believed to be either the assistant prosecutor or the judge’s bailiff—made improper contact with the jury during deliberations with the judge’s oversight.

In August 2025, the State filed a response noting that while Bell’s motions referenced several exhibits supporting the allegations, no such exhibits were appended to the motions or separately filed. Days later, Bell filed an amended motion for a new trial. The amended motion reiterated the claims ostensibly relayed by Juror #1 and Juror #2 and attached several exhibits. These included copies of inmate emails between Bell and what appeared to be Juror #1 discussing Juror #1’s criminal history, an affidavit by Juror #2 detailing the alleged interference by officers of the court during deliberations, affidavits by James Bell, and other documents.

In an entry dated August 28, 2025, the trial court denied Bell’s motion for leave to file a motion for a new trial. The court’s entry indicated Bell failed to present any exhibits in support of his motions. In a single assignment of error, Bell challenges the trial court’s judgment. We review the denial of a motion for leave to file a delayed motion for a new trial under an abuse-of-discretion standard. *State v. Brand*, 2023-Ohio-3321, ¶ 5 (1st Dist.). An abuse of discretion connotes a decision that is arbitrary, unreasonable, or unconscionable. *Id.*, citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

Bell argues that his motion established prima facie grounds that he was unavoidably prevented from discovering the evidence supporting the motion as contemplated by Crim.R. 33(A)(6) and (B). He further maintains he was entitled to a hearing because the documents appended to the amended motion facially supported his claim of unavoidable prevention. Finally, Bell argues that the trial court abused its

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discretion by disregarding the exhibits attached to his amended motion. The State agrees that the trial court erred in denying Bell's motion without reviewing the exhibits, which were made part of the record before the court entered its judgment.

Crim.R. 33(A)(6) provides that a new trial may be granted “[w]hen new evidence material to the defense is discovered which the defendant could not with reasonable diligence have discovered and produced at the trial.” Under Crim.R. 33(B), the deadline for a timely motion for a new trial premised upon newly discovered evidence is 120 days after the verdict. If the motion is filed outside this timeframe, the defendant must first seek leave from the trial court to file a delayed motion for a new trial. *State v. Johnson*, 2025-Ohio-2206, ¶ 15 (10th Dist.). To obtain such leave, the defendant must demonstrate by clear and convincing proof that he was unavoidably prevented from discovering the evidence upon which the motion is based within the prescribed period. *Id.* The jury in Bell's case returned its verdicts in 2016, well before the filing of the instant motions in 2025. Accordingly, Bell appropriately sought leave to file a delayed motion for a new trial.

The record supports that Bell's initial motion for leave and motion for a new trial referenced certain documentary exhibits but failed to attach them. The State's responsive filing highlighted the omission. Bell then filed his amended motion with several attachments. The trial court's subsequent entry denying relief stated, “Bell's motion suggests he has numerous exhibits related to these allegations. None of that evidence has been filed or otherwise presented to this court.” This indicates the trial court did not review Bell's amended motion for a new trial and the numerous exhibits appended thereto, which constitutes reversible error. *Compare Higgins v. Buehrer*, 2016-Ohio-7214, ¶ 6-10 (1st Dist.).

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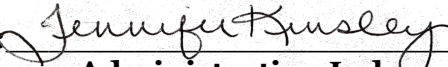
Bell's assignment of error is sustained. The trial court's judgment is reversed and the cause is remanded with instructions that the court review the entirety of the record, including the amended motion and its attachments, prior to issuing a judgment. *See id.*

The court further orders that (1) a copy of this Judgment constitutes the mandate, (2) the mandate be sent to the trial court for execution under App.R. 27, and (3) costs shall be taxed under App.R. 24.

CROUSE, P.J., and **BOCK, J.**, concur.

To the clerk:

Enter upon the journal of the court on 4/24/2026 per order of the court.

By: 
Administrative Judge