

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

[Cite as *Pesci v. Goodrich*, 133 Ohio St.3d 227, 2012-Ohio-4540.]

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 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.

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).