

THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO

STATE OF OHIO ex rel.	:	MEMORANDUM OPINION
CHERYL A. HOSTA, et al.,		
Plaintiffs-Appellees,	:	
- vs -	:	CASE NO. 2004-L-039
ANDREW STEVEN MALISE,	:	
Defendant-Appellant.	:	

Civil appeal from the Court of Common Pleas, Juvenile Division, Case No. 1993 JV 00964.

Judgment: Appeal dismissed.

Linda D. Cooper, Cooper & Forbes, 166 Main Street, Painesville, OH 44077-3403 (For Plaintiffs-Appellees).

Kenneth J. Cahill, Joseph R. Ulrich Co., L.P.A., 1959 Mentor Avenue, #2, Painesville, OH, 44077 (For Defendant-Appellant).

DONALD R. FORD, P.J.

{¶1} On February 26, 2004, appellant, Andrew Steven Malise, filed a notice of appeal from a January 28, 2004 judgment of the Lake County Court of Common Pleas, Juvenile Division. On June 11, 2004, this court issued a judgment ordering appellant to show cause why this appeal should not be dismissed. On June 29, 2004, appellant filed a brief in support of jurisdiction.

{¶2} After reviewing the docket and appellant's brief in support of jurisdiction, it is now evident that this appeal must be dismissed as untimely. In appellant's docketing statement, he indicated that the probable issue for review was whether the trial court erred when it ordered him to pay child support. Then, in appellant's brief filed on April 30, 2004, the sole assignment of error raised is whether the trial court abused its discretion by ordering appellant to pay child support.

{¶3} It is evident from the trial court's docket that the trial court's judgment ordering appellant to pay child support in this parentage action was entered on April 1, 2003. The January 28, 2004 judgment that appellant appealed from only addressed two issues; (1) that appellee, Cheryl D. Hosta, was to receive the tax exemption for the child, and (2) that appellee was to provide health insurance for the child. It is clear that the April 1, 2003 judgment ordering appellant to pay child support was a final appealable order, and that the notice of appeal filed on February 26, 2004 was almost ten months late.

{¶4} Pursuant to App.R. 4(A), a notice of appeal must be filed within thirty days of the judgment being appealed or, in a civil case, service of the notice of judgment if service is not made within the three day period in Civ.R. 58(B).

{¶5} Appellant did not comply with the thirty-day rule set forth in App.R. 4(A) nor has he alleged a failure by the trial court clerk to comply with Civ.R. 58(B). The time requirement is jurisdictional in nature, and may not be enlarged by an appellate court. *State ex rel. Pendell v. Adams Cty. Bd. of Elections* (1988), 40 Ohio St.3d 58, 60; App.R. 14(B).

{¶6} Accordingly, this appeal is, sua sponte, dismissed pursuant to App.R. 4(A).

{¶7} Appeal dismissed.

JUDITH A. CHRISTLEY, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.