

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO**

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2005-G-2667
RICARDO ANDERSON,	:	
Defendant-Appellant.		

Criminal Appeal from the Court of Common Pleas, Case No. 04 C 000129.

Judgment: Appeal Dismissed.

David P. Joyce, Geauga County Prosecutor, Courthouse Annex, 231 Main Street, Chardon, OH 44024 (For Plaintiff-Appellee).

Ricardo Anderson, pro se, PID: #482-055, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030-8000 (Defendant-Appellant).

DONALD R. FORD, J.,

{¶1} On September 15, 2005, appellant, Ricardo Anderson, filed a notice of appeal from an August 12, 2005 judgment of the Geauga County Court of Common Pleas. Thus, appellant's notice of appeal was filed thirty-four days after the judgment had been issued by the trial court.

{¶2} App.R. 4(A) states:

{¶3} "A party shall file the notice of appeal required by App.R. 3 within thirty days of the later of entry of the judgment or order appealed or, in a civil case, service of

the notice of judgment and its entry if service is not made on the party within the three day rule period in Rule 58(B) of the Ohio Rules of Civil Procedure.”

{¶4} App.R. 5(A) states, in relevant part:

{¶5} “(1) 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} “(b) Delinquency proceedings; and

{¶8} “(c) Serious youthful offender proceedings.

{¶9} “(2) 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.”

{¶10} In the present case, appellant has neither complied with the thirty-day rule set forth in App.R. 4(A) nor sought leave to appeal. Thus, this court is without jurisdiction to consider this appeal. In order to appeal the trial court’s decision, appellant must file a motion for delayed appeal at the same time he files a notice of appeal pursuant to App.R. 5(A).

{¶11} Based upon the foregoing analysis, this appeal is hereby sua sponte dismissed as being untimely.

{¶12} Appeal dismissed.

WILLIAM M. O’NEILL, J.,

DIANE V. GRENDALL, J.,

concur.