

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2005-P-0091
BRIAN L. WILLIAMS,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2004 CR 0397.

Judgment: Appeal dismissed.

Victor V. Viglucci, Portage County Prosecutor, 466 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Brian L. Williams, pro se, PID: 480-934, Allen Correctional Institution, P.O. Box 4501, Lima, OH 45802-4501 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.,

{¶1} This matter is before this Court on the pro se motion of appellant, Brian L. Williams, to file a delayed appeal. Along with his motion, appellant filed his notice of appeal on November 28, 2005. Appellant is appealing the trial court's October 13, 2005 judgment overruling his motion to suspend or stay execution of court costs. Thus, appellant's appeal is untimely pursuant to App.R. 4(A).

{¶2} No brief or memorandum in opposition to appellant's motion has been filed.

{¶3} App.R. 5(A) provides a defendant with an opportunity to file an appeal after the expiration of the thirty-day period allowed by App.R. 4(A). However, App.R. 5(A) is only applicable in criminal cases, not civil cases, or, in other words, when a direct appeal is taken from a sentencing judgment. A motion to suspend or stay court costs is civil in nature. Generally, any proceedings that occur following conviction and sentence are not considered criminal proceedings but, rather, civil proceedings. *State v. Nichols* (1984), 11 Ohio St.3d 40, 42; *State v. Milanovich* (1975), 42 Ohio St.2d 46, 49; *State v. Handwork*, 11th Dist. No. 2004-P-0031, 2004-Ohio-5110; *State v. Young* (June 23, 1999), 9th Dist. No. 18980, 1999 WL 420382.

{¶4} The time requirement for filing a notice of appeal is jurisdictional 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).

{¶5} Accordingly, appellant's motion for leave to appeal is hereby overruled.

{¶6} Appeal dismissed.

DONALD R. FORD, P.J.,

DIANE V. GRENDELL, J.,

concur.