

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2006-P-0097
CHRISTOPHER G. MACK,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2002 CR 0245.

Judgment: Appeal dismissed.

Victor V. Viglucci, Portage County Prosecutor, 206-B South Meridian Street, P.O. Box 129, Ravenna, OH 44266 (For Plaintiff-Appellee).

Christopher G. Mack, pro se, PID: 454-389, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030-8000 (Defendant-Appellant).

DONALD R. FORD, P.J.,

{¶1} This matter is before this Court upon appellant, Christopher G. Mack's, pro se notice of appeal filed September 18, 2006, from the trial court's August 16, 2006 judgment denying his motion for a new sentencing hearing. Appellant's notice of appeal was due by Wednesday, September 15, 2006, which was not a holiday or a weekend.

{¶2} App.R. 4(A) states that:

{¶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.

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

CYNTHIA WESTCOTT RICE, J.,
COLLEEN MARY O'TOOLE, J.,
concur.