

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

IN THE MATTER OF: DEVIN KRAFFT : **MEMORANDUM OPINION**
 :
 : **CASE NO. 2007-A-0065**

Civil Appeal from the Court of Common Pleas, Juvenile Division, Case No. 05 JL 136.

Judgment: Appeal dismissed.

Jane Hawn-Jackson, 4717 Park Avenue, #102, Ashtabula, OH 44004 (For Appellee, Ryan Krafft, Father).

Carrie Wright, pro se, 1032 Allen Avenue, P.O. Box 75, Ashtabula, OH 44005 (Appellant, Mother).

Jodi M. Blankenship, 1610 East Prospect Road, Ashtabula, OH 44004 (Guardian ad litem).

TIMOTHY P. CANNON, J.

{¶1} On August 24, 2007, appellant, Carrie Wright, filed a notice of appeal from a July 24, 2007 judgment entry of the Ashtabula County Court of Common Pleas, Juvenile Division. Thus, appellant's notice of appeal was filed thirty-one days after the judgment had been issued by the trial court. Appellant's notice of appeal was due on Thursday, August 23, 2007, 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} Loc.R. 3(D)(2) of the Eleventh District Court of Appeals provides:

{¶5} “In the filing of a Notice of Appeal in civil cases in which the trial court clerk has not complied with Ohio Civ.R. 58(B), *and the Notice of Appeal is deemed to be filed out of rule*, appellant shall attach an affidavit from the trial court clerk stating that service was not perfected pursuant to Ohio App.R. 4(A). The clerk shall then perfect service and furnish this Court with a copy of the appearance docket in which date of service has been noted. Lack of compliance shall result in the *sua sponte* dismissal of the appeal under Ohio App.R. 4(A).” (Emphasis sic.)

{¶6} Here, appellant has not complied with the thirty-day rule set forth in App.R. 4(A) nor has appellant alleged that there was 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).

{¶1} Furthermore, App.R. 3(A) states:

{¶2} “An appeal as of right shall be taken by filing a notice of appeal with the clerk of the trial court within the time allowed by Rule 4. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the court of appeals deems

appropriate, which may include dismissal of the appeal. Appeals by leave of court shall be taken in the manner prescribed by Rule 5.”

{¶7} In the case at bar, appellant has not complied with App.R. 3(A) by filing a notice of appeal with this court. Also, pursuant to Loc.R. 3(D)(3), appellant failed to attach the judgment entry being appealed to the notice of appeal. Therefore, since appellant failed to file a timely notice of appeal and attach the judgment entry, this court lacks jurisdiction.

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

CYNTHIA WESTCOTT RICE, P.J.,

MARY JANE TRAPP, J.,

concur.