

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

|                      |   |                             |
|----------------------|---|-----------------------------|
| STATE OF OHIO,       | : | <b>MEMORANDUM OPINION</b>   |
| Plaintiff-Appellee,  | : |                             |
| -VS-                 | : | <b>CASE NO. 2007-A-0060</b> |
| CLIFTON D. HOPKINS,  | : |                             |
| Defendant-Appellant. | : |                             |

Criminal Appeal from the Court of Common Pleas, Case No. 2006 CR 419.

Judgment: Appeal dismissed.

*Thomas L. Sartini*, Ashtabula County Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

*Timothy J. Kucharski*, Hilliard Building, Third Floor, 1419 West Ninth Street, Cleveland, OH 44113 (For Defendant-Appellant).

DIANE V. GRENDELL, J.,

{¶1} On July 30, 2007, appellant, Clifton D. Hopkins, by and through counsel, filed a notice of appeal from a June 26, 2007 judgment of the Ashtabula County Court of Common Pleas. Appellant's notice of appeal was due to be filed by Thursday, July 26, 2007, which was not a holiday or a weekend. Thus, his appeal was untimely filed.

{¶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 \*\*\*."

{¶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 under App.R. 5(A). Thus, this court is without jurisdiction to consider this appeal.

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

{¶12} Appeal dismissed.

COLLEEN MARY O'TOOLE, J.,

TIMOTHY P. CANNON, J.,

concur.