

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2009-L-004
BERNARD M. HILL,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 08 CR 000316.

Judgment: Appeal dismissed.

Charles E. Coulson, Lake County Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

Christopher P. Tucci, Rand, Gurley, Hanahan & Koerner, L.L.C., 8383 Mentor Avenue, #101, Mentor, OH 44060 (For Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} On January 9, 2009, appellant, Bernard M. Hill, filed a notice of appeal from a December 2, 2008 judgment of conviction and sentence issued by the Lake County Court of Common Pleas. In that judgment, appellant was found guilty of aggravated burglary, felonious assault, domestic violence, and endangering children. The trial court sentenced him to serve an aggregate term of ten years in prison.

{¶2} App.R. 4(A) states in part:

{¶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} In this case, appellant’s notice of appeal was due by January 2, 2009, which was not a holiday or a weekend. The notice of appeal was not filed until Friday, January 9, 2009. Thus, his appeal was filed seven days late.

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

{¶6} “(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:

{¶7} “(a) Criminal proceedings;

{¶8} “(b) Delinquency proceedings; and

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

{¶10} “(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. ***”

{¶11} 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.

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

{¶13} Appeal dismissed.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.