

COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2008-T-0126
JOSEPH HEADLEY,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2005 CR 00393.

Judgment: Appeal dismissed.

Dennis Watkins, Trumbull County Prosecutor, *LuWayne Annos*, Assistant Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481-1092 (For Plaintiff-Appellee).

Joseph Headley, pro se, PID: 502-536, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030 (Defendant-Appellant).

MARY JANE TRAPP, P.J.

{¶1} This matter is before this court on appeal, filed November 26, 2008, from a judgment issued by the trial court on October 20, 2008. That judgment denied the motion for judicial release of appellant, Joseph Headley, without a hearing.

{¶2} On December 2, 2008, appellee, state of Ohio, filed a motion to dismiss the appeal. In the motion, appellee indicates that the appealed judgment is not a final appealable order and should be dismissed on that basis.

{¶3} No brief or memorandum in opposition to the motion to dismiss has been filed.

{¶4} It is well-settled that the denial of a motion for judicial release is not a final appealable order. See *State v. Coffman*, 91 Ohio St.3d 125, 2001-Ohio-273; *State v. Balch*, 11th Dist. No. 2008-P-0050, 2008-Ohio-4416; *State v. Hedgecoth*, 1st Dist. No. C-060190, 2007-Ohio-4462; *State v. Ingram*, 10th Dist. No. 03AP-149, 2003-Ohio-5380.

{¶5} Furthermore, pursuant to App.R. 4(A):

{¶6} “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 ***.”

{¶7} In addition to the fact that the appealed judgment denying the motion for judicial release is not a final appealable order, appellant’s notice of appeal of the judgment was filed seven days beyond the thirty-day requirement in App.R. 4(A). So even if there were a final order in the present case, the appeal is untimely and would be dismissed on those grounds.

{¶8} Accordingly, appellee’s motion to dismiss is granted, and the appeal is hereby dismissed for lack of a final appealable order.

DIANE V. GRENDALL, J.,

TIMOTHY P. CANNON, J.,

concur.