

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

GRANGE MUTUAL CASUALTY CO., et al.,	:	MEMORANDUM OPINION
	:	
Plaintiffs-Appellees,	:	CASE NO. 2011-L-092
	:	
- vs -	:	
	:	
DERRICK L. LAWRENCE,	:	
	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 09CV003875.

Judgment: Appeal dismissed.

Herbert L. Nussle, Keis & George, 55 Public Square, #800, Cleveland, OH 44113-2001 (For Plaintiffs-Appellees).

Derrick L. Lawrence, pro se, PID: A560025, Pickaway Correctional Institution, P.O. Box 209, Orient, OH 43146 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On July 18, 2011, appellant, Derrick L. Lawrence, pro se, filed a notice of appeal from an April 6, 2011 entry of the Lake County Court of Common Pleas. Along with his notice of appeal, appellant filed a motion for leave to file a delayed appeal. Appellant's notice of appeal was due on Friday, May 6, 2011, 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 neither complied with the thirty-day rule set forth in App.R. 4(A) nor 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; see, also, App.R. 14(B).

{¶7} Turning to appellant’s motion for delayed appeal, it is well-settled that delayed appeals are only applicable to criminal cases. See App.R. 5(A); *State v. Johnson*, 11th Dist. No. 2007-T-0092, 2007-Ohio-5500, at ¶2.

{¶8} In the instant matter, appellant is attempting to file an untimely appeal from an April 6, 2011 judgment of the Lake County Court of Common Pleas. This judgment cannot be appealed through a motion for delayed appeal because App.R.

5(A)(1) motions for delayed appeal only apply to untimely criminal proceedings. Appellant cannot utilize an App.R. 5(A) motion to file an untimely appeal in this matter since it involves a civil appeal.

{¶9} Accordingly, based on the foregoing, this appeal is dismissed, sua sponte, pursuant to App.R. 4(A).

{¶10} Appeal dismissed.

TIMOTHY P. CANNON, P.J.,

THOMAS R. WRIGHT, J.,

concur.