

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2011-P-0070
JARMEL LATIMER,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2010 CR 0258.

Judgment: Appeal dismissed.

Victor V. Vigluicci, Portage County Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Patricia J. Smith, 114 Barrington Town Square, #188, Aurora, OH 44202 (For Defendant-Appellant).

MARY JANE TRAPP, J.,

{¶1} On August 19, 2011, appellant, by and through counsel, filed a notice of appeal from a July 8, 2011 judgment entry of his conviction and sentence issued by the Portage County Court of Common Pleas.

{¶2} Attached to appellant's notice of appeal is an August 10, 2011 entry issued by the trial court which removes previously appointed counsel and appoints new counsel to represent appellant for purposes of appeal. In addition, the last paragraph of the entry states in relevant part:

{¶3} “IT IS HEREBY ORDERED due to the above circumstances a fifteen (15) day extension is granted to file notice of appeal.

{¶4} IT IS SO ORDERED.”

{¶5} App.R. 4(A) states in part:

{¶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 this case, appellant’s notice of appeal was due by August 8, 2011. Since it was not filed until August 19, it is untimely by eleven days.

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

{¶9} “(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:

{¶10} “(a) Criminal proceedings;

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

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

{¶13} “(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. Concurrently with the filing of the motion, the movant shall file with the clerk of the trial court a notice of appeal in the form prescribed by App.R. 3 and shall file a copy of the notice of appeal with the court of appeals. ***”

{¶14} 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. Further, the trial court’s entry granting an extension of time to file appellant’s notice of appeal had no effect since the time requirement is jurisdictional. *State ex rel. Pendell v. Adams Cty. Bd. of Elections*

(1988), 40 Ohio St.3d 58, 60. Additionally, App.R. 14(B) states that “[t]he court may not enlarge or reduce the time for filing a notice of appeal ***.” Thus, this court is without jurisdiction to consider this appeal.

{¶15} Appellant has a remedy to file an untimely appeal from a criminal judgment under App.R. 5(A).

{¶16} Appeal dismissed, sua sponte, pursuant to App.R. 4(A).

TIMOTHY P. CANNON, P.J.,

DIANE V. GRENDALL, J., concur.