

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

DENNIS WATKINS, TRUMBULL COUNTY PROSECUTING ATTORNEY,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	CASE NO. 2013-T-0091
- VS -	:	
ERIC PORTERFIELD,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2013 CV 897.

Judgment: Appeal dismissed.

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

Eric Porterfield, pro se, PID: A420502, Mansfield Correctional Institution, P.O. Box 788, 1150 North Main Street, Mansfield, OH 44901 (Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} This matter is before this court on the pro se “Notice of Appeal by Leave of Court” pursuant to App.R. 5(A) filed by appellant, Eric Porterfield, on August 21, 2013. Appellant appears to be appealing the trial court July 5, 2013 judgment, in which he was declared a vexatious litigator. Appellant’s appeal was due to be filed on August 5, 2013.

{¶2} On August 22, 2013, appellee, Dennis Watkins, Trumbull County Prosecuting Attorney, filed an opposition to appellant’s request for leave to appeal and a motion to dismiss the appeal.

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

{¶4} “(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:

{¶5} “(a) Criminal proceedings;

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

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

{¶8} In this case, the July 5, 2013 entry being appealed is not from a criminal, delinquency, or serious youthful offender proceeding. Rather, the judgment being appealed was the trial court’s declaration of appellant as a vexatious litigator. Appellant is attempting to utilize App.R. 5(A) to extend his time to file a notice of appeal beyond the 30-day time limit provided for in App.R. 4(A). However, his attempt is ineffective since App.R. 5(A) may only be used to extend the time to file a notice of appeal from a judgment issued from a criminal, delinquency, or serious youthful offender proceeding. *See Kuss v. Clements*, 11th Dist. No. 2012-P-0051, 2012-Ohio-3641. The appellate rules do not contain a provision for a delayed appeal in a civil action.

{¶9} Accordingly, it is ordered that appellee’s motion to dismiss the appeal is hereby granted, and this appeal is dismissed as untimely.

DIANE V. GRENDELL, J.,

THOMAS R. WRIGHT, J.,

concur.