

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

DIANA L. RIOS,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellant,	:	
- VS -	:	<b>CASE NO. 2014-T-0076</b>
DEAN A. RIOS,	:	
Defendant-Appellee.	:	

Civil Appeal from the Trumbull County Court of Common Pleas, Domestic Relations Division, Case No. 07 DR 442.

Judgment: Appeal dismissed.

*Benjamin Joltin*, Benjamin Joltin, L.L.C., 3855 Starrs Centre Drive, Suite A, Canfield, OH 44406 (For Plaintiff-Appellant).

*John J. Pico*, Betras, Kopp & Harshman, LLC, 6630 Seville Drive, Canfield, OH 44406 (For Defendant-Appellee).

*Bruce Bennett*, 1669 Sunny Estates Drive, Niles, OH 44446 (Guardian ad Litem).

DIANE V. GRENDELL, J.

{¶1} On August 28, 2014, appellant, Diana L. Rios, by and through counsel, filed a notice of appeal from the July 28, 2014 Judgment Entry of the Trumbull County Court of Common Pleas, Domestic Relations Division.

{¶2} App.R. 4(A)(1) states that, “[s]ubject to the provisions of App.R. 4(A)(3), a party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry.” Further, “[i]n a civil case, if

the clerk has not completed service of the order within the three-day period prescribed in Civ.R. 58(B), the 30-day periods referenced in App.R. 4(A)(1) and 4(A)(2) begin to run on the date when the clerk actually completes service.” App.R. 4(A)(3).

{¶3} Civ.R. 58(B) directs the clerk of courts to serve the parties with notice of the judgment within three days of entering the judgment upon the journal.

{¶4} The record in this case clearly shows that the order from which appellant wishes to appeal was entered on the court’s docket and filed on July 28, 2014. On the same date, the clerk of courts noted on the appearance docket: “Rule 58 Notice issued to” appellant’s counsel.

{¶5} Thus, service was made on appellant within the three-day period required in Civ.R. 58(B), and the thirty-day time period began to run on the date of entry of judgment, July 28, 2014. The notice of appeal was due on August 27, 2014, which was not a holiday or a weekend. Appellant untimely filed her notice of appeal on August 28, 2014.

{¶6} The time requirement is jurisdictional in nature and may not be enlarged by an appellate court in a civil appeal. *State ex rel. Pendell v. Adams Cty. Bd. of Elections*, 40 Ohio St.3d 58, 60, 531 N.E.2d 713 (1988); *In re H.F.*, 120 Ohio St.3d 499, 2008-Ohio-6810, 900 N.E.2d 607, ¶ 17. *Also* App.R. 14(B) (“[t]he court may not enlarge or reduce the time for filing a notice of appeal”).

{¶7} Accordingly, this appeal is dismissed, sua sponte, pursuant to App.R. 4(A).

TIMOTHY P. CANNON, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.