

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

LARRY LYNN,	:	MEMORANDUM OPINION
Plaintiff-Appellant,	:	
- vs -	:	CASE NO. 2016-A-0014
DANA SCHULTE,	:	
Defendant-Appellee.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2013 CV 151.

Judgment: Appeal dismissed.

Larry Lynn, pro se, 4243 Harper Street, Perry, OH 44081 (Plaintiff-Appellant).

Christopher M. Newcomb, Christopher M. Newcomb, Esq., LLC, 213 Washington Street, Conneaut, OH 44030 (For Defendant-Appellee).

DIANE V. GRENDELL, J.

{¶1} On February 12, 2016, appellant, Larry Lynn, filed a pro se notice of appeal from a January 8, 2016 entry of the Ashtabula County Court of Common Pleas.

{¶2} App.R. 3(A) expressly states that the only jurisdictional requirement for the filing of a valid appeal is to file a notice of appeal within the time allowed by App.R. 4. The Supreme Court of Ohio has held that the failure to comply with the time requirements of App.R. 4(A) is a jurisdictional defect, which is fatal to an appeal. *In re H.F.*, 120 Ohio St.3d 499, 2008-Ohio-6810, ¶ 17, citing *State ex rel. Pendell v. Adams Cty. Bd. of Elections*, 40 Ohio St.3d 58, 60 (1988).

{¶3} 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).

{¶4} 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.

{¶5} The record in this case reveals that the order from which appellant wishes to appeal was entered on the court’s docket and filed on January 8, 2016. Furthermore, on that same date, the clerk of courts noted on the appearance docket that copies of the entry were issued to the parties.

{¶6} 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, January 8, 2016. Accordingly, the deadline for appellant to file his notice of appeal was February 8, 2016, which was not a holiday or a weekend. This court is not empowered to extend the time deadline in civil cases. *Pendell, supra*, at 60; *see also* App.R. 14(B). Appellant untimely filed his notice of appeal on February 12, 2016.

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

TIMOTHY P. CANNON, J.,

THOMAS R. WRIGHT, J.,

concur.