

Steven Reece challenges the Jay Circuit Court's order denying his motion for additional credit time. Because Reece failed to timely file a Notice of Appeal, we dismiss.

Facts and Procedural History

On November 2, 2000, Reece pleaded guilty to attempted murder and was sentenced to twenty-five years in the Department of Correction. During his time there, Reece attempted to take advantage of the various educational opportunities that could lead to a reduction in sentence. On August 22, 2006, Reece filed his petition for additional credit time. On October 19, 2006, the post-conviction court entered an order denying Reece's petition. Reece filed his Notice of Appeal on November 28, 2006, forty days later.¹

Discussion and Decision

The post-conviction court denied Reece's petition in an order dated October 19, 2006. Indiana Appellate Rule 9(A)(1) requires that a Notice of Appeal be filed "within thirty (30) days after the entry of a Final Judgment." Thirty days after October 19, 2006 would have been November 18, 2006, a Saturday. Pursuant to Appellate Rule 25, Reece had until November 20, 2006 to file his Notice of Appeal. He did not file his notice until eight days later on November 28, 2006.

Indiana Appellate Rule 9(A)(5) further states that, where the Notice of Appeal is untimely filed, "the right to appeal shall be forfeited except as provided by [Post-

¹ The certificate of service indicates that Reece claims to have served a copy of the Notice of Appeal on November 16, 2006 yet fails to note who received service. However, this would not have saved the appeal since the Notice of Appeal needed to be filed within thirty days of the entry of the trial court's denial and order and was not filed until November 28, 2006.

Conviction Rule] 2.” We therefore lack jurisdiction over Reece’s appeal.² See Davis v. State, 771 N.E.2d 647, 648-49 (Ind. 2002) (where defendant filed Notice of Appeal after the thirty-day deadline of Appellate Rule 9, and Post-Conviction Rule 2 did not apply, he forfeited his right to appeal, therefore Court of Appeals lacked subject matter jurisdiction and erred in hearing appeal); Hancock v. State, 786 N.E.2d 1142, 1143-1144 (Ind. Ct. App. 2003) (appeal after re-sentencing) (holding, in accordance with Davis, that we must dismiss an attempted appeal for lack of subject matter jurisdiction in the absence of a timely Notice of Appeal or Post-Conviction Rule 2 petition)).

For all these reasons, we therefore dismiss Reece’s attempted appeal as untimely.³

Dismissed.

NAJAM, J., and BRADFORD, J., concur.

² Furthermore, as noted in Neville v. State, 694 N.E.2d 296, 297 (Ind. Ct. App. 1998), belated appeals are only allowed to directly appeal the conviction. Here, Reece is seeking appellate review of an order regarding credit time.

³ Regardless of the procedural jurisdiction failure, Reece failed to prove that he exhausted all available administrative remedies and this, by itself, is sufficient basis to dismiss the appeal for lack of subject-matter jurisdiction. See Samuels v. State, 849 N.E.2d 689 (Ind. Ct. App. 2006).