

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

STATE OF OHIO,	:	MEMORANDUM OPINION
	:	
Plaintiff-Appellee,	:	
	:	CASE NO. 2003-T-0175
- vs -	:	
	:	
MICHAEL L. MOGUL,	:	
	:	
Defendant-Appellant.	:	

Civil Appeal from Girard Municipal Court, Case No. 2003 CRB 00333.

Judgment: Appeal dismissed.

Robert L. Johnson, Girard City Prosecutor, 100 North Market Street, Girard, OH, 44420. (For Plaintiff-Appellee).

Michael L. Mogul, pro se, 17 Ruth Circle, Youngstown, OH, 44505-1913 (Defendant-Appellant).

DIANE V. GRENDALL, J.

{¶1} On November 19, 2003, appellant, Michael L. Mogul, filed a notice of appeal from an October 16, 2003 judgment of the Girard Municipal Court. Thus, appellant's notice of appeal was filed thirty-four days after the judgment had been issued by the trial court.

{¶2} App.R. 4(A) states:

{¶3} “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 or, in a civil case, service of the notice of judgment and its entry if service is not made on the party within the three day period in Rule 58(B) of the Ohio Rules of Civil Procedure.”

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

{¶5} “(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:

{¶6} “(a) Criminal proceedings;

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

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

{¶9} “(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.”

{¶10} 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. Thus, this court is without jurisdiction to consider this appeal. Additionally, we note that the underlying trial court case was dismissed for want of prosecution. Therefore, an appeal would have been unnecessary.

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

{¶12} The appeal is dismissed.

Appeal dismissed.

DONALD R. FORD, P.J., and WILLIAM M. O’NEILL, J., concur.

