

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

CITY OF WARREN,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee	:	
- vs -	:	<b>CASE NO. 2005-T-0014</b>
BRYAN P. ROTH,	:	
Defendant-Appellant.	:	

Criminal Appeal from Warren Municipal Court, Case No. 04 TRD 8331.

Judgment: Appeal dismissed.

*Gregory V. Hicks*, Warren Law Director, 391 Mahoning Avenue, N.W., Warren, OH, 44483. (For Plaintiff-Appellee).

*Bryan P. Roth*, pro se, 1052 Broadway Avenue, Masury, OH, 44438 (Defendant-Appellant).

DONALD R. FORD, P. J.

{¶1} On January 28, 2005, appellant, Bryan P. Roth, filed a notice of appeal from a December 15, 2004 judgment of the Warren Municipal Court. Thus, appellant's notice of appeal was filed forty-four days after the trial court issued its judgment of conviction and sentence.

{¶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. This appeal is sua sponte dismissed as untimely.

{¶11} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

COLLEEN MARY O'TOOLE, J.,

concur.