

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

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| KAREN McLAIN, | : | MEMORANDUM OPINION |
| Plaintiff-Appellant, | : | CASE NO. 2007-T-0027 |
| - VS - | : | |
| SECOND NATIONAL BANK, d.b.a. SECOND BANC CORP., INC., n.k.a. SKY BANK, | : | |
| Defendant-Appellee. | : | |

Civil Appeal from the Court of Common Pleas, Case No. 2005 CV 2101.

Judgment: Appeal dismissed.

Karen McLain, pro se, 1116 North Mantua Street, Kent, OH 44240 (For Plaintiff-Appellant).

William L. Hawley, Harrington, Hoppe & Mitchell, Ltd., 108 Main Avenue, S.W., #500, P.O. Box 1510, Warren, OH 44482-1510 (For Defendant-Appellee).

CYNTHIA WESTCOTT RICE, P.J.,

{¶1} On February 21, 2007, appellant, Karen McLain, filed a pro se document requesting a motion for delayed appeal. Attached to this document was a January 19, 2007 judgment entry issued by the trial court which granted summary judgment for appellee, Second National Bank, d.b.a. Second Banc Corp., Inc., n.k.a. Sky Bank. Appellee filed a memorandum in opposition to the motion for delayed appeal on March 9, 2007.

{¶2} App.R. 3(A) states:

{¶3} “An appeal as of right shall be taken by filing a notice of appeal with the clerk of the trial court within the time allowed by Rule 4. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the court of appeals deems appropriate, which may include dismissal of the appeal. Appeals by leave of court shall be taken in the manner prescribed by Rule 5.”

{¶4} App.R. 5(A) provides:

{¶5} “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. Concurrently with the filing of the motion, the movant shall file with the clerk of the trial court a notice of appeal in the form prescribed by App.R. 3 and shall file a copy of the notice of the appeal in the court of appeals.” (Emphasis added.)

{¶10} In the case at bar, appellant has not complied with App.R. 3(A) by filing a notice of appeal with this court. Furthermore, the instant matter involves a civil appeal; thus, App.R. 5(A) is inapplicable to civil proceedings and only applies to criminal

proceedings, delinquency proceedings, and serious youth offender proceedings as indicated in the rule.

{¶11} Therefore, it is ordered that appellant's motion for delayed appeal is hereby overruled.

{¶12} Appeal dismissed.

COLLEEN MARY O'TOOLE, J.,

MARY JANE TRAPP, J.,

concur.