

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

IN THE MATTER OF: : **MEMORANDUM OPINION**
GREGORY D. HUNT, :
DELINQUENT CHILD :
 : **CASE NO. 2008-L-051**
 :

May 23, 2008

Criminal Appeal from the Court of Common Pleas, Juvenile Division, Case No. 2007 DL 00054.

Judgment: Appeal dismissed.

Charles E. Coulson, Lake County Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Appellee).

James D. Falvey, Barthol & Staley, 7327 Center Street, Mentor, OH 44060 (For Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} On April 8, 2008, appellant, Gregory D. Hunt, filed a notice of appeal from the March 7, 2008 judgment entry of the Lake County Court of Common Pleas, Juvenile Division. In the March 7, 2008 judgment, the court ordered that the juvenile be held in the Lake County Detention Facility for three hundred sixty days starting March 7, 2008, with three hundred thirty days suspended on conditions. In a previous June 28, 2007

judgment, appellant was found to be delinquent for committing three counts of assault, one count of gross sexual imposition, and one count of sexual imposition.

{¶2} Thus, appellant's notice of appeal was filed thirty-one days after the judgment had been issued by the trial court. Appellant's notice of appeal was due by Monday, April 7, 2008, which was not a holiday or a weekend.

{¶3} App.R. 4(A) states that:

{¶1} "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 ***"

{¶2} App.R. 5(A) states, in relevant part:

{¶3} "(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:

{¶4} "(a) Criminal proceedings;

{¶5} "(b) Delinquency proceedings; and

{¶6} "(c) Serious youthful offender proceedings.

{¶7} "(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. ***"

{¶8} 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. In order to appeal the trial court's decision, appellant must file a motion for delayed appeal at the same time he files a notice of appeal pursuant to App.R. 5(A).

{¶9} Based upon the foregoing analysis, this appeal is hereby sua sponte dismissed as untimely.

{¶10} Appeal dismissed.

MARY JANE TRAPP, A.J.,

TIMOTHY P. CANNON, J., concur.