

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

IN THE MATTER OF:	:	MEMORANDUM OPINION
K.L.-F.	:	
DELINQUENT CHILD	:	
	:	CASE NO. 2009-G-2891
	:	
	:	

Criminal Appeal from the Court of Common Pleas, Juvenile Division, Case No. 08 JD 000552.

Judgment: Appeal dismissed.

David P. Joyce, Geauga County Prosecutor, and *Nicholas A. Burling*, Assistant Prosecutor, Courthouse Annex, 231 Main Street, Chardon, OH 44024 (For Plaintiff-Appellee).

Terrence M. Fay and *Lisa Weekley Coulter*, Frost Brown Todd, L.L.C., 10 West Broad Street, #2300, Columbus, OH 43215 (For Defendant-Appellant).

MARY JANE TRAPP, P.J.

{¶1} On March 25, 2009, appellant, K.L.-F., by and through counsel, filed a notice of appeal from a February 18, 2009 judgment of the Geauga County Court of Common Pleas, Juvenile Division. Appellant’s notice of appeal was due to be filed with the Juvenile Court by Friday, March 20, 2009, which was not a holiday or a weekend. Thus, the appeal was untimely filed.

{¶2} On April 6, 2009, appellee, the state of Ohio, filed a motion to dismiss the appeal as being untimely pursuant to App.R. 4(A). No brief or memorandum in opposition to the motion has been filed.

{¶3} App.R. 4(A) states:

{¶4} “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 ***.”

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

{¶6} “(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:

{¶7} “(a) Criminal proceedings;

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

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

{¶10} “(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.”

{¶11} 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 under App.R. 5(A). Thus, this court is without jurisdiction to consider this appeal.

{¶12} Based upon the foregoing analysis, appellee’s motion to dismiss is granted, and this appeal is hereby dismissed as being untimely.

{¶13} Appeal dismissed.

DIANE V. GRENDALL, J.,
TIMOTHY P. CANNON, J.,
concur.