

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2009-T-0081
HENRY L. EDMONDS,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 07 CR 258.

Judgment: Appeal dismissed.

Dennis Watkins, Trumbull County Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481-1092 (For Plaintiff-Appellee).

Henry L. Edmonds, pro se, PID: 563-865, Mansfield Correctional Institution, P.O. Box 788, Mansfield, OH 44901 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} On August 18, 2009, appellant, Henry L. Edmonds, pro se, filed his notice of appeal from a July 16, 2009 judgment of the Trumbull County Court of Common Pleas. The judgment denied his motion for jail time credit.

{¶2} App.R. 4(A) states in part:

{¶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. ***”

{¶4} In this case, appellant's notice of appeal was due by Monday, August 17, 2009, which was not a holiday or a weekend. The notice of appeal was not filed until Tuesday, August 18, 2009. Thus, the notice was filed one day late.

{¶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. 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 appeal with the court of appeals. ***"

{¶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. Thus, this court is without jurisdiction to consider this appeal. Appellant has a remedy to file an untimely appeal from a criminal judgment under App.R. 5(A).

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

{¶13} Appeal dismissed.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J., concur.