

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2010-T-0037
ARTHUR BELL,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2000 CR 279.

Judgment: Appeal dismissed.

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

Arthur Bell, pro se, PID: 561-428, Marion Correctional Institution, P.O. Box 57, Marion, OH 43301-0057 (Defendant-Appellant).

MARY JANE TRAPP, P.J.

{¶1} On March 11, 2010, appellant, Arthur Bell, pro se, filed a notice of appeal from a January 12, 2010 judgment of the Trumbull County Court of Common Pleas.

{¶2} On March 12, 2010, appellee, the state of Ohio, filed a motion to dismiss this appeal as being untimely pursuant to App.R. 4(A).

{¶3} Appellant filed a response in opposition to the motion on April 14, 2010.

{¶4} App.R. 4(A) states:

{¶5} “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 ***.”

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

{¶7} “(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:

{¶8} “(a) Criminal proceedings;

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

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

{¶11} “(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.”

{¶12} 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) by filing a separate motion for delayed appeal which includes his reasons for filing an untimely appeal. Thus, this court is presently without jurisdiction to consider this appeal. In order to perfect his appeal of 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).

{¶13} Appellant’s notice of appeal was due to be filed by Thursday, February 11, 2010, which was not a holiday or a weekend. Thus, his appeal was untimely filed.

{¶14} Therefore, appellee’s motion to dismiss is granted.

{¶15} Appeal dismissed.

DIANE V. GRENDALL, J.,

TIMOTHY P. CANNON, J., concur.