

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2010-T-0061
KENNETH BRIAN HUGHES,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Trumbull County Court, Eastern Division, Case No. 09 TRC 633.

Judgment: Appeal dismissed.

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

Kenneth Brian Hughes, pro se, 970 North Albright-McKay Road, Brookfield, OH 44403 (Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} On April 20, 2010, appellant, Kenneth Brian Hughes, pro se, filed a notice of appeal from his judgment entry of conviction and sentence issued by the Trumbull County Court, Eastern Division, on February 4, 2010. Appellant's notice of appeal was due to be filed by Monday, March 8, 2010, which was not a holiday or a weekend. Thus, his appeal was untimely filed.

{¶2} App.R. 4(A) states:

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

{¶5} “(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:

{¶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.”

{¶10} 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.

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

{¶12} Appeal dismissed.

MARY JANE TRAPP, P.J.,

DIANE V. GRENDALL, J.,

concur.