

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

KATHLEEN CARTER,	:	MEMORANDUM OPINION
Plaintiff-Appellant,	:	
- VS -	:	CASE NO. 2015-L-015
LAKE COUNTY GOVERNMENT, et al.,	:	
Defendant-Appellee.	:	

Civil Appeal from the Court of Common Pleas, Case No. 13 CV 001640.

Judgment: Appeal dismissed.

Thomas J. Mayernik, Zicarelli & Martello, 8754 Mentor Avenue, Mentor, OH 44060
(For Plaintiff-Appellant).

Charles E. Coulson, Lake County Prosecutor, and *Benjamin J. Neylon*, Assistant
Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490,
Painesville, OH 44077 (For Defendant-Appellee).

DIANE V. GRENDELL, J.

{¶1} On February 5, 2015, appellant, Kathleen Carter, by and through counsel of record, Thomas J. Mayernik, filed a notice of appeal from a January 5, 2015 entry of the Lake County Court of Common Pleas.

{¶2} App.R. 3(A) expressly states that the only jurisdictional requirement for the filing of a valid appeal is to file a notice of appeal within the time allowed by App.R. 4. The Supreme Court of Ohio has held that the failure to comply with the time requirements of App.R. 4(A) is a jurisdictional defect, which is fatal to an appeal. *In re*

H.F., 120 Ohio St.3d 499, 2008-Ohio-6810, ¶ 17, citing *State ex rel. Pendell v. Adams Cty. Bd. of Elections*, 40 Ohio St.3d 58, 60 (1988).

{¶3} App.R. 4(A)(1) states that, “[s]ubject to the provisions of App.R. 4(A)(3), a party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry.” Further, “[i]n a civil case, if the clerk has not completed service of the order within the three-day period prescribed in Civ.R. 58(B), the 30-day periods referenced in App.R. 4(A)(1) and 4(A)(2) begin to run on the date when the clerk actually completes service.” App.R. 4(A)(3).

{¶4} Civ.R. 58(B) directs the clerk of courts to serve the parties with notice of the judgment within three days of entering the judgment upon the journal.

{¶5} The record in this case clearly shows that the order from which appellant wishes to appeal was entered on the court’s docket and filed on January 5, 2015. Furthermore, on January 5, 2015, the clerk of courts noted on the appearance docket that copies of the entry were mailed to the parties.

{¶6} Thus, service was made on appellant within the three day period required in Civ.R. 58(B), and the thirty day time period began to run on the date of entry of judgment, January 5, 2015. Accordingly, the deadline for appellant to file her notice of appeal was February 4, 2015, which was not a holiday or a weekend. This court is not empowered to extend the time deadline in civil cases. *Pendell, supra*, at 60; *see also* App.R. 14(B). Appellant untimely filed her notice of appeal on February 5, 2015.

{¶7} Based upon the foregoing, this appeal is dismissed, sua sponte, pursuant to App.R. 4(A).

CYNTHIA WESTCOTT RICE, J.,
THOMAS R. WRIGHT, J., concur.