

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2016-L-102
WALTER LEE BRAUN, II,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2015 CR 000933.

Judgment: Appeal dismissed.

Charles E. Coulson, Lake County Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

David M. Lynch, 333 Babbitt Road, Suite 333, Euclid, OH 44123 (For Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} On September 26, 2016, appellant, by and through counsel, filed a notice of appeal from an August 24, 2016 judgment of the Lake County Court of Common Pleas. Appellant's notice of appeal was due to be filed by September 23, 2016, which was not a holiday or a weekend. Thus, his appeal was untimely filed.

{¶2} App.R. 4(A)(1) states in relevant part:

{¶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. * *

* ”

{¶4} App.R. 5(A) states:

{¶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). Appellant has a remedy under App.R. 5(A) to file an untimely appeal from a criminal judgment.

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

{¶12} Appeal dismissed.

DIANE V. GRENDALL, J.,

TIMOTHY P. CANNON, J.,

concur.