

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

STATE OF OHIO,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
-vs-	:	<b>CASE NO. 2016-T-0121</b>
MARQUES JAMES SHANNON,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2015 CR 000863.

Judgment: Appeal dismissed.

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

*Marques James Shannon*, pro se, PID# A681-663, Lake Erie Correctional institution, P.O. Box 8000, 501 Thompson Road, Conneaut, OH 44030 (Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} On December 8, 2016, appellant, pro se, filed a notice of appeal from the trial court's November 7, 2016 "Amended Entry on Sentence." Appellant's notice of appeal was due to be filed no later than December 7, 2016, which was not a holiday or a weekend. Thus, the appeal was untimely filed by one day.

{¶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)(1) nor sought leave to appeal under App.R. 5(A). Appellant has a remedy under App.R. 5(A) for filing an untimely criminal appeal.

{¶11} Because this court is without jurisdiction, the appeal is hereby sua sponte dismissed as being untimely.

DIANE V. GRENDALL, J.,

TIMOTHY P. CANNON, J.,

concur.