

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2018-P-0019
DYLAN J. BRISCAR,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Portage County Court of Common Pleas, Case No. 2017 CR 00587.

Judgment: Appeal dismissed.

Victor V. Vigluicci, Portage County Prosecutor, and *Pamela Holder*, Assistant Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Dylan J. Briscar, pro se, PID: A704-457, Lorain Correctional Institution, 2075 South Avon-Belden Road, Grafton, OH 44044 (Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.

{¶1} On February 26, 2018, appellant, Dylan J. Briscar, pro se, filed a notice of appeal from the trial court's sentencing entry of January 22, 2018. A timely appeal was due no later than February 21, 2018, which was not a holiday or weekend. Thus, the appeal was untimely filed by five days.

{¶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). Thus, this court is without jurisdiction to consider this appeal.

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

{¶12} Based on the foregoing, this appeal is hereby sua sponte dismissed as being untimely.

{¶13} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

TIMOTHY P. CANNON, J., concur.