

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

STATE OF OHIO,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
-vs-	:	<b>CASE NOS. 2019-P-0028</b>
	:	<b>2019-P-0029</b>
DAVID A. NIXON,	:	
Defendant-Appellant.	:	

Criminal Appeals from the Portage County Court of Common Pleas, Case No. 2015 CR 00018 and 2015 CR 00417.

Judgment: Appeals dismissed.

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

*David A. Nixon*, pro se, PID# A694-305, Richland Correctional Institution, 1001 Olivesburg Road, P.O. Box 8107, Mansfield, OH 44905 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} Appellant filed pro se notices of appeal on March 12, 2019, from a February 8, 2019 entry of the Portage County Court of Common Pleas denying his post-sentencing motion to withdraw *capias* and terminate probation.

{¶2} A timely notice of appeal from that entry was due no later than March 11, 2019, which was not a holiday or a weekend. Thus, the appeals are untimely filed by one day.

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

{¶4} “\* \* \* [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.”

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

{¶6} “(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:

{¶7} “(a) Criminal proceedings;

{¶8} “(b) Delinquency proceedings; and

{¶9} “(c) Serious youthful offender proceedings.

{¶10} “(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. \* \* \*.”

{¶11} 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 the appeals.

{¶12} Appeals dismissed, sua sponte, as being untimely.

THOMAS R. WRIGHT, P.J.,

MATT LYNCH, J.,

concur.