

[Cite as *State v. Mallory*, 2020-Ohio-441.]

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2019-T-0090
ANTONIO DARNELL MALLORY,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2019 CR 00062.

Judgment: Appeal dismissed.

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

Antonio Darnell Mallory, PID# A764-346, Lake Erie Correctional Institution, 501 Thompson Road, P.O. Box 8000, Conneaut, OH 44030 (Defendant-Appellant).

THOMAS R. WRIGHT, J.

{¶1} On December 27, 2019, appellant's pro se notice of appeal was filed with the Trumbull County Court of Common Pleas. Appellant appeals the trial court's November 25, 2019 sentencing entry.

{¶2} A timely notice of appeal from that entry was due no later than December 26, 2019, which was not a holiday or a weekend. Thus, the appeal was untimely filed by one day.

{¶3} The material attached to appellant's notice of appeal reflects that he mistakenly mailed his notice to the following address: "11th District Court of Appeals, United State (sic) District Court, 125 Market Street, Youngstown, Ohio 44503."

{¶4} It appears that, due to appellant's error in mailing his notice of appeal to the incorrect court and address, his notice was not received by the Trumbull County Court of Common Pleas until December 27, 2019, one day after its due date.

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

{¶6} "* * * [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."

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

{¶8} "(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:

{¶9} "(a) Criminal proceedings;

{¶10} "(b) Delinquency proceedings; and

{¶11} "(c) Serious youthful offender proceedings.

{¶12} "(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. * * *."

{¶13} Since appellant's notice of appeal is untimely pursuant to App.R. 4(A)(1), this court is without jurisdiction. Appellant may, however, file a motion for leave to file a delayed appeal in accordance with App.R. 5(A). Appeal dismissed.

MATT LYNCH, J.,

MARY JANE TRAPP, J.,

concur.