

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2020-P-0093
BRYAN P. KELLY,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Ravenna Municipal Court, Case No. 2020 CRB 01227 R.

Judgment: Appeal dismissed.

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

Joseph M. Messuri, 209 South Chestnut Street, Suite 400, Ravenna, OH 44226 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On December 18, 2020, appellant, Bryan P. Kelly, through counsel, filed a notice of appeal from the trial court’s November 17, 2020 sentencing entry. A timely notice was due December 17, 2020, which was not a holiday or weekend. The appeal is untimely by one day.

{¶2} “* * * [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.” App.R. 4(A)(1).

{¶3} “(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:

{¶4} “(a) Criminal proceedings; * * *

{¶5} “(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. * * *.” App.R. 5(A).

{¶6} 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 his appeal. Appellant has a remedy of filing an untimely criminal appeal under App.R. 5(A).

{¶7} Appeal dismissed, sua sponte, as untimely.

THOMAS R. WRIGHT, J.,

MATT LYNCH, J.,

concur.