

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2020-T-0077
JONATHAN R. EMERINE,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2015 CR 00693

Judgment: Appeal dismissed.

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

Jonathan R. Emerine, pro se, PID: A683-007, Lake Erie Correctional Institution, 501 Thompson Road, P.O. Box 8000, Conneaut, OH 44030 (Defendant-Appellant).

MARY JANE TRAPP, J.,

{¶1} Appellant, Jonathan R. Emerine, pro se, filed a notice of appeal on October 13, 2020 from the trial court’s September 8, 2020 entry denying his “Motion to Credit Prison Community Work Service toward Court Costs and Fines.” A timely notice of appeal was due no later than October 8, 2020, which was not a weekend or a holiday. Thus, the appeal is untimely filed by five days.

{¶2} Appellee, the state of Ohio, filed a motion for leave to file a motion to dismiss the appeal on October 27, 2020. The motion for leave is hereby granted

instanter. Appellee moves this court to dismiss the appeal as being untimely pursuant to App.R. 4(A)(1). No brief or memorandum in opposition to the motion to dismiss has been filed.

{¶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} “(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.”

{¶9} Here, 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.

{¶10} Accordingly, appellee’s motion to dismiss is granted, and the appeal is hereby dismissed as being untimely.

{¶11} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

MATT LYNCH, J.,

concur.