

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2017-T-0088
MARK E. CARNES,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Trumbull County Court of Common Pleas, Case No. 2014 CR 00395.

Judgment: Appeal dismissed.

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

Mark E. Carnes, pro se, PID: A662-583, Madison Correctional Institution, 1851 State Route 56, London, OH 43140 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} On September 13, 2017, appellant, pro se, filed a notice of appeal from an August 7, 2017 judgment entry denying his motion to withdraw his guilty plea issued by the Trumbull County Court of Common Pleas. Appellant's notice of appeal was due to be filed no later than September 6, 2017, which was not a holiday or a weekend. Thus, the appeal is untimely by seven 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} Appellant has a remedy to file an untimely appeal from a criminal judgment under App.R. 5(A), which states in relevant part:

{¶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 the appeal.

{¶11} Appeal dismissed, sua sponte, pursuant to App.R. 4(A).

THOMAS R. WRIGHT, J.,

COLLEEN MARY O'TOOLE, J.,

concur.