

**THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	CASE NO. 2003-L-194
- vs -	:	
SHAWN W. FISHER,	:	
Defendant-Appellant.	:	

Criminal appeal from the Court of Common Pleas, Case No. 01 CR 000351.

Judgment: Appeal dismissed.

Charles E. Coulson, Lake County Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH, 44077 (For Plaintiff-Appellee).

Colleen M. O'Toole, 3214 Prospect Avenue, East, Cleveland, OH, 44115 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On November 7, 2003, appellant, Shawn W. Fisher, filed a notice of appeal from an October 7, 2003 judgment of the Lake County Court of Common Pleas. In that judgment, appellant was resentenced for voluntary manslaughter pursuant to a reversal and remand from this court. Thus, appellant's notice of appeal was filed thirty-one days after the judgment had been issued by the trial court.

{¶2} App.R. 4(A) states:

{¶3} “A party shall file the notice of appeal required by App. R. 3 within thirty days of the later of entry of the judgment or order appealed or, in a civil case, service of the notice of judgment and its entry if service is not made on the party within the three day period in Rule 58(B) of the Ohio Rules of Civil Procedure.”

{¶4} App.R. 5(A) provides, 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) nor sought leave to appeal. Thus, this court is without jurisdiction to consider this appeal.

{¶11} Accordingly, this appeal is sua sponte dismissed pursuant to App. R. 4(A).

{¶12} The appeal is dismissed.

Appeal dismissed.

WILLIAM M. O'NEILL and DIANE V. GRENDALL, JJ., concur.