

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

IN THE MATTER OF: : **MEMORANDUM OPINION**

MATTHEW, CURTIS AND KATHERINE :
MEYER :

CASE NO. 2003-A-0127

Civil Appeal from the Court of Common Pleas, Juvenile Division, Case No 2000 JF 14.

Judgment: Appeal dismissed.

Phillip L. Heasley, Ashtabula County Public Defender, Inc., 4817 State Road, #202, Ashtabula, Ohio 44004-6927 (For Appellant Leslie Taylor).

Laura M. DiGiacomo, 3914 C Court, P.O. Box 1175, Ashtabula, Ohio 44005-1175 (For Appellee, Ashtabula County Children Services Board).

DONALD R. FORD, P.J.

{¶1} On November 25, 2003, appellant, Leslie Taylor, filed a notice of appeal from an October 22, 2003 judgment of the Ashtabula County Court of Common Pleas, Juvenile Division. Thus, appellant's notice of appeal was filed thirty-four days after the judgment had been issued by the trial court. On December 5, 2003, appellee, Ashtabula County Children Services Board, filed a motion to dismiss this appeal as untimely. On December 8, 2003, appellant filed a response.

{¶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} Loc.R. 5(C) of the Eleventh District Court of Appeals provides:

{¶5} “In the filing of a Notice of Appeal in civil cases in which the trial court clerk has not complied with Civ.R. 58(B), *and the Notice of Appeal is deemed to be filed out of rule*, appellant shall attach an affidavit from the trial court clerk stating that service was not perfected pursuant to Ohio App.R. 4(A). The clerk shall then perfect service and furnish this court with a copy of the appearance docket in which date of service has been noted. Lack of compliance shall result in the *sua sponte* dismissal of the appeal under Ohio App.R. 4(A).” (Emphasis sic.)

{¶6} In the present case, appellant has not complied with the thirty-day rule set forth in App.R. 4(A) nor has appellant alleged that there was a failure by the trial court clerk to comply with Civ.R. 58(B). The time requirement is jurisdictional in nature, and may not be enlarged by an appellate court. *State ex rel. Pendell v. Adams Cty. Bd. of Elections* (1988), 40 Ohio St.3d 58, 60; App.R. 14(B).

{¶7} Accordingly, appellee’s motion to dismiss is hereby granted pursuant to App. R. 4(A).

{¶8} The appeal is dismissed.

Appeal dismissed.

JUDITH A. CHRISTLEY and CYNTHIA WESTCOTT RICE, JJ., concur.