

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2004-P-0031
JAMES R. HANDWORK,	:	September 24, 2004
Defendant-Appellant.	:	

Criminal appeal from the Common Pleas Court, Case No. 02 CR 0311.

Judgment: Appeal dismissed.

Victor V. Vigluicci, Portage County Prosecutor, 466 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

James R. Handwork, pro se, PID: 440-603, Trumbull Correctional Institution, P.O. Box 901, Leavittsburg, OH 44430-0901 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} This matter is before this court on the pro se motion of appellant, James R. Handwork, to file a delayed appeal. On March 8, 2004, the Portage County Court of Common Pleas overruled appellant's motion to vacate fines and court costs. Appellant filed his motion for a delayed appeal on April 19, 2004. Thus, appellant failed to file his appeal in a timely manner.

{¶2} A motion to vacate fines and costs is civil in nature. App.R. 5(A) provides a defendant with an opportunity to file an appeal after expiration of the normal thirty-day period. However, App.R. 5(A) is only applicable in criminal cases or, in other words, when a direct appeal is taken from a sentencing judgment. Any proceedings that occur following conviction and sentence are not considered criminal proceedings but, rather, civil proceedings. *State v. Nichols* (1984), 11 Ohio St.3d 40, 42; *State v. Milanovich* (1975), 42 Ohio St.2d 46, 49. App.R. 5(A) is not applicable to civil proceedings.

{¶3} 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).

{¶4} Accordingly, appellant's motion for leave to file a delayed appeal is hereby overruled.

{¶5} Appeal dismissed.

DONALD R. FORD, P.J.,

DIANE V. GRENDELL, J.,

concur.