

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2005-P-0034
ROBERT F. HUNT,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 98 CR 0075.

Judgment: Appeal Dismissed.

Victor V. Vigluicci, Portage County Prosecutor, 466 South Chestnut Street, Ravenna , OH 440266 (For Plaintiff-Appellee).

Robert F. Hunt, pro se, PID #359-531, Marion Correctional Institution, P.O. Box 57, Marion, OH 44301 (Defendant-Appellant).

COLLEEN MARY O'TOOLE, J.,

{¶1} On April 15, 2005, appellant, Robert F. Hunt, filed a notice of appeal from a March 9, 2005 judgment of the Portage County Court of Common Pleas. Thus, appellant's notice of appeal was filed thirty-seven days after the judgment being appealed was issued by the trial court. On April 20, 2005, appellee, State of Ohio, filed a motion to dismiss this appeal as untimely.

{¶2} App.R. 4(A) states:

{¶3} “A party shall file a 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 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. In order to appeal the trial court’s decision, appellant must file a motion for delayed appeal in this court pursuant to App.R. 5(A).

{¶11} Hence, appellee’s motion to dismiss this appeal is hereby granted.

{¶12} Appeal dismissed.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.