

COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY, OHIO

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- VS -	:	CASE NO. 2007-A-0066
TONY T. OLDS,	:	
Defendant-Appellant.	:	

Criminal appeal from the Court of Common Pleas, Case No. 01 CR 43.

Judgment: Appeal dismissed.

Thomas L. Sartini, Ashtabula County Prosecutor, Ashtabula County Courthouse, 25 West Jefferson Street, Jefferson, OH 44047-1092 (For Plaintiff-Appellee).

Tony T. Olds, pro se, PID: 408-113, 2500 South Avon-Belden Road, Grafton, OH 44044 (Defendant-Appellant).

DIANE V. GRENDELL, J.,

{¶1} This matter is before this court upon an appeal filed September 4, 2007, from appellant's conviction and sentence issued by the trial court on July 18, 2001.

{¶2} On September 6, 2007, appellee filed a motion to dismiss the appeal as being untimely pursuant to App.R. 4(A). No brief or memorandum in opposition to the motion to dismiss has been filed.

{¶3} App.R. 4(A) states:

{¶4} “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 ***.”

{¶5} App.R. 5(A) states, in relevant part:

{¶6} “(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:

{¶7} “(a) Criminal proceedings;

{¶8} “(b) Delinquency proceedings; and

{¶9} “(c) Serious youthful offender proceedings.

{¶10} “(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.”

{¶11} 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 under App.R. 5(A). Thus, this court is without jurisdiction to consider this appeal.

{¶12} Based upon the foregoing analysis, it is ordered that appellee’s motion to dismiss is granted and this appeal is hereby dismissed as being untimely.

{¶13} Appeal dismissed.

CYNTHIA WESTCOTT RICE, P.J.,

MARY JANE TRAPP, J.,

concur.