

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

JOE CINDRIC,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2012-G-3059
TROY HENDERSON,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 10M000568.

Judgment: Appeal dismissed.

George Badovick, 13033 Ravenna Road, Chardon, OH 44024 and *Clark D. Rice*, Koeth, Rice & Leo Co., L.P.A., 1280 West Third Street, Third Floor, Cleveland, OH 44113-1514 (For Plaintiff-Appellee).

Troy Henderson, pro se, 11040 Clark Road, Chardon, OH 44024 (Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} On March 1, 2012, appellant, Troy Henderson, pro se, filed a notice of appeal from a January 30, 2012 entry of the Geauga County Court of Common Pleas. The notice of appeal was due on February 29, 2012, which was not a holiday or a weekend.

{¶2} On April 2, 2012, this court issued a judgment entry ordering appellant to show cause within 15 days as to why his appeal should not be dismissed pursuant to App.R. 4(A).

{¶3} On April 18, 2012, appellant filed a “Motion to Show Cause Not to Dismissed (sic) Action.” In his filing, appellant requests an extension of time in filing his notice of appeal.

{¶4} On April 28, 2012, appellee filed a brief in opposition to appellant’s “motion.” Appellee posits that due to the untimely filing of the notice of appeal and appellant’s failure to show cause why the appeal should not be dismissed, the appeal should be dismissed.

{¶5} App.R. 4(A) states that:

{¶6} “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 rule period in Rule 58(B) of the Ohio Rules of Civil Procedure.”

{¶7} Loc.R. 3(D)(2) of the Eleventh District Court of Appeals provides:

{¶8} In the filing of a Notice of Appeal in civil cases in which the trial court clerk has not complied with Ohio 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.)

{¶9} Here, appellant has neither complied with the 30-day rule set forth in App.R. 4(A) nor 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*, 40 Ohio St.3d 58, 60 (1988); *see also* App.R. 14(B).

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

{¶11} Appeal dismissed.

DIANE V. GRENDELL, J.,

THOMAS R. WRIGHT, J.,

concur.