

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

JENNIFER THOMASON,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2012-L-008</b>
MARC PASSALACQUA,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Juvenile Division, Case No. 2006 UR 00073.

Judgment: Appeal dismissed.

*Jennifer Thomason*, pro se, 904 Bowen Avenue, Modesto, CA 95350 (Plaintiff-Appellee).

*Marc A. Passalacqua*, pro se, PID: A583832, Belmont Correctional Institution, P.O. Box 540, St. Clairsville, OH 43950 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} This appeal is pending upon appellant's notice of appeal and motion for leave to file a delayed appeal pursuant to App.R. 5. On January 13, 2012, appellant, Marc Passalacqua, pro se, filed his notice of appeal. His motion for leave to file a delayed appeal was filed with this court on January 17, 2012.

{¶2} In the notice of appeal, appellant failed to attach the entry from which he is appealing. However, upon examining the notice of appeal, it is appears that appellant is attempting to appeal the April 19, 2011 entry, in which the Lake County Court of Common Pleas, Juvenile Division, determined the child support calculation.

{¶3} App.R. 5(A)(1) provides as follows:

{¶4} “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 \* \* \* Criminal proceedings.”

{¶5} It is well-settled that delayed appeals are only applicable to criminal proceedings, delinquency proceedings, and youthful offender proceedings. See *Grange Mut. Cas. Co. v. Lawrence*, 11th Dist. No. 2011-L-092, 2011-Ohio-4307, ¶7.

{¶6} Obviously, here the appealed judgment is not from a criminal proceeding as required by App.R. 5(A). In fact, the April 19 entry being appealed appears to have been generated from a civil action commenced in the trial court by appellee, Jennifer Thomason. The April 19 judgment is the same one appellant attempted to appeal in *Thomason v. Passalacqua*, 11th Dist. No. 2011-L-069, 2011-Ohio-5861, which this court dismissed as untimely pursuant to App.R. 4(A).

{¶7} Therefore, appellant’s attempt to utilize App.R. 5(A) to extend his time to file a notice of appeal beyond the thirty day limit provided for in App.R. 4(A) is ineffective. Appellant cannot utilize an App.R. 5(A) motion to file an untimely appeal since this case involves a civil appeal.

{¶8} Accordingly, based on the foregoing, appellant’s motion for leave to file a delayed appeal is overruled, and this appeal is sua sponte dismissed as being untimely.

TIMOTHY P. CANNON, P.J.,

THOMAS R. WRIGHT, J.,

concur.