

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

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| SAM LAMANCUSA, TREASURER, TRUMBULL COUNTY, OHIO, | : | MEMORANDUM OPINION |
| | : | |
| Plaintiff-Appellee, | : | CASE NO. 2014-T-0026 |
| | : | |
| - VS - | : | |
| | : | |
| KENNETH G. JAMISON, et al., | : | |
| | : | |
| Defendant-Appellant. | : | |

Civil Appeal from the Court of Common Pleas, Case No. 2013 CV 1168.

Judgment: Appeal dismissed.

Dennis Watkins, Trumbull County Prosecutor, and *Lynn B. Griffith, III*, Assistant Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481-1092 (For Plaintiff-Appellee).

Kenneth G. Jamison, pro se, 1288 Gladlys Road, Gladlys, VA 24554-3044 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On April 11, 2014, appellant, Kenneth G. Jamison, pro se, filed a notice of appeal from a December 10, 2013 entry of the Trumbull County Court of Common Pleas.

{¶2} Appellee filed a motion to dismiss the appeal on April 21, 2014. In its motion, appellee moves this court to dismiss appellant's notice of appeal as untimely filed pursuant to App.R. 4(A).

{¶3} Appellant filed a response to the motion to dismiss on May 6, 2014.

{¶4} App.R. 4(A) requires a party to file a notice of appeal “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 Civil Procedure.”

{¶5} App.R. 3(A) expressly states that the only jurisdictional requirement for the filing of a valid appeal is to file a notice of appeal within the time allowed by App.R. 4. The Supreme Court of Ohio has held that the failure to comply with time requirements of App.R. 4(A) is a jurisdictional defect, which is fatal to an appeal. *In re H.F.*, 120 Ohio St.3d 499, 2008-Ohio-6810, ¶ 17, citing *State ex rel. Pendell v. Adams Cty. Bd. of Elections*, 40 Ohio St.3d 58, 60 (1988).

{¶6} Civ.R. 58(B) directs the clerk of courts to serve the parties with notice of the judgment within three days of entering the judgment upon the journal.

{¶7} The record in this case clearly shows that the order from which appellant wishes to appeal was entered on the court’s docket and filed on December 10, 2013. On December 13, 2013, the clerk of courts noted on the appearance docket that “copies [were sent] to Pros, K. Jamison (X2).”

{¶8} Therefore, service was made on appellant within the three day period required in Civ.R. 58(B), and the thirty day time period began to run on date of entry of judgment, December 10, 2013. Accordingly, the deadline for appellant to file his notice of appeal was January 9, 2014, which was not a holiday or a weekend. This court is not empowered to extend the time deadline in civil cases. *Pendell, supra*, at 60; *see also*

App.R. 14(B). Appellant untimely filed his notice of appeal on April 11, 2014, which was approximately four months after the court issued its entry.

{¶9} Based upon the foregoing, appellee's motion to dismiss is hereby granted, and this appeal is dismissed pursuant to App.R. 4(A).

{¶10} Appeal dismissed.

THOMAS R. WRIGHT, J.

COLLEEN MARY O'TOOLE, J.,

concur.