

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2015-T-0101
ALAN M. FRANCIS,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2015 CR 867.

Judgment: Appeal dismissed.

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

Alan M. Francis, pro se, PID: A562-142, Mansfield Correctional Institution, P.O. Box 788, 1150 North Main Street, Mansfield, OH 44901 (Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} On September 11, 2015, appellant, Alan M. Francis, pro se, filed a notice of appeal from an August 11, 2015 judgment of the Trumbull County Court of Common Pleas which denied appellant's motion to waive fees and costs and ordered that he pay a monthly payment of \$5.

{¶2} Appellant's notice of appeal was due to be filed by Thursday, September 10, 2015, which was not a holiday or a weekend. Thus, his appeal was filed untimely by one day.

{¶3} App.R. 4(A)(1) states:

{¶4} “[A] party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within thirty days of that entry.”

{¶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, this appeal is hereby sua sponte dismissed as being untimely.

{¶13} Appeal dismissed.

DIANE V. GRENDALL, J.,

COLLEEN MARY O'TOOLE, J.,

concur.