

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

STATE OF OHIO,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2016-G-0059</b>
RICHARD W. GIBBS,	:	
Defendant-Appellant.	:	

Criminal appeal from the Court of Common Pleas, Case No. 06 C 000077.

Judgment: Appeal dismissed.

*James R. Flaiz*, Geauga County Prosecutor, and *Nicholas A. Burling*, Assistant Prosecutor, Courthouse Annex, 231 Main Street, Suite 3A, Chardon, OH 44024 (For Plaintiff-Appellee).

*Richard W. Gibbs*, pro se, PID: A530-087, London Correctional Institution, P.O. Box 69, 1580 State Route 56, SW, London, OH 43140 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, P.J.

{¶1} On February 11, 2016, appellant, Richard W. Gibbs filed a notice of appeal indicating that he was appealing a January 28, 2015 trial court entry.

{¶2} On February 16, 2016, appellee, the state of Ohio, filed a motion to dismiss the appeal pursuant to App.R. 4(A)(1) as being untimely by almost a year. On February 26, 2016, appellant responded to the motion to dismiss asserting that he was not appealing the January 28, 2015, as he stated on his notice of appeal, but that he

was appealing “the trial court’s failure to make a ruling on his January 19, 2016, motion to vacate a void conviction \* \* \*.”

{¶3} Assuming that appellant is appealing the trial court’s January 28, 2015 judgment entry as stated on his notice of appeal, appellee is correct that it is untimely by almost a year. In addition, there is already an appeal from the January 28, 2015 entry presently before this court in 11th Dist. Geauga No. 2015-G-0011, which would make this a duplicate appeal.

{¶4} As to appellant’s assertion that he is actually appealing the trial court’s failure to rule on his January 19, 2016 motion, there is no new judgment from which appellant could file a notice of appeal. A final judgment is a necessary condition for invoking this court’s jurisdiction.

{¶5} 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 and as being a duplicate appeal.

{¶6} Appeal dismissed.

TIMOTHY P. CANNON, J.,

COLLEEN MARY O’TOOLE, J.,

concur.