

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

|                         |   |                             |
|-------------------------|---|-----------------------------|
| STATE OF OHIO,          | : | <b>MEMORANDUM OPINION</b>   |
| Plaintiff-Appellee,     | : |                             |
| -vs-                    | : | <b>CASE NO. 2020-P-0067</b> |
| KENNETH D. CURLEY, JR., | : |                             |
| Defendant-Appellant.    | : |                             |

Criminal Appeal from the Portage County Court of Common Pleas, Case No. 2015 CR 00168.

Judgment: Appeal dismissed.

*Victor V. Viglucci*, Portage County Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

*Kenneth D. Curley, Jr.*, PID# A673-318, Marion Correctional Institution, 940 Marion-Williamsport Road, P.O. Box 57, Marion, OH 43302 (Defendant-Appellant).

TIMOTHY P. CANNON, P.J.

{¶1} Appellant filed a pro se notice of appeal on September 4, 2020, from a July 31, 2020 entry of the Portage County Court of Common Pleas denying his motion for relief from judgment.

{¶2} A timely notice of appeal from that entry was due no later than August 31, 2020, which was not a holiday or a weekend. Thus, the appeal was untimely filed by four days.

{¶3} App.R. 4(A)(1) states in relevant part:

{¶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 30 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} “(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. \* \* \*.”

{¶9} In the present case, appellant has neither complied with the thirty-day rule set forth in App.R. 4(A)(1) nor sought leave to appeal under App.R. 5(A). Thus, this court is without jurisdiction to consider this appeal.

{¶10} Based on the foregoing, this appeal is hereby sua sponte dismissed as being untimely.

THOMAS R. WRIGHT, J.,

MARY JANE TRAPP, J.,

concur.