[Cite as *Lebanon v. Aselage*, 2011-Ohio-5230.]

IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

WARREN COUNTY

CITY OF LEBANON,	:	
Plaintiff-Appellee,	:	CASE NO. CA2011-04-030
	:	O P I N I O N 10/11/2011
- vs -		
	:	
PATRICK ASELAGE,	:	
Defendant-Appellant.	:	

CRIMINAL APPEAL FROM LEBANON MUNICIPAL COURT
Case No. TRC 10 01564

Matthew J. Graber, Lebanon City Prosecutor, 423 Reading Road, Mason, Ohio 45040, for plaintiff-appellee

Paul M. Laufman, 30 Garfield Place, Suite 750, Cincinnati, Ohio 45202, for defendant-appellant

RINGLAND, J.

{¶1} Defendant-appellant, Patrick Aselage, appeals his conviction in the Lebanon Municipal Court for operating a vehicle under the influence of alcohol or drugs ("OVI"). We dismiss the appeal for lack of a final, appealable order.[1]

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1. Pursuant to Loc.R. 6(A), we sua sponte remove this appeal from the accelerated calendar.

{¶2} In June 2010, appellant was charged with OVI. Following the trial court's denial of his motion to suppress, appellant entered a no contest plea and was subsequently sentenced. On appeal, appellant challenges the denial of his motion to suppress. However, we cannot address the merits of this appeal for the reasons that follow.

{¶3} "Before a court of appeals may address the merits of any appeal, it must first possess the requisite jurisdiction to do so. In a criminal case, jurisdiction is conferred upon the filing of a notice of appeal with the clerk of the trial court within 30 days of the date of the entry of the judgment or order appealed from." *State v. Ginocchio* (1987), 38 Ohio App.3d 105, 106; *State v. Williams*, Lorain App. No. 06CA008927, 2007-Ohio-1897 (an appellate court is obligated to sua sponte raise questions related to its jurisdiction).

{¶4} Crim.R. 32(C), which defines "judgment," states in relevant part that "[a] judgment of conviction shall set forth the plea, the verdict, or findings, upon which each conviction is based, and the sentence. * * * The judge shall sign the judgment and the clerk shall enter it on the journal. A judgment is effective only when entered on the journal by the clerk."

{¶5} In *Ginocchio*, we held that in all criminal cases appealed to this court, a formal final journal entry or order must be prepared which contains "(1) the case caption and number; (2) a designation as a decision or judgment entry or both; (3) a clear pronouncement of the court's judgment, including the plea, the verdict or findings, sentence, and the court's rationale if the entry is combined with a decision or opinion; (4) the judge's signature; and (5) a time stamp indicating the filing of the judgment with the clerk for journalization." *Ginocchio* at 106. "Failure to comply with these formalities results in the lack of a final appealable order." *State v. Dickey* (1991), 74 Ohio App.3d 587, 589.

{¶6} In the case at bar, we are unable to locate a judgment entry meeting the requirements of Crim.R. 32(C). As in *Ginocchio*, the only document which could arguably be considered a judgment is a docket form which was apparently filled out and signed by the trial judge. The form contains dates and several handwritten notations concerning the proceedings from arrest through plea and sentencing.

{¶7} The form contains the case caption and number, the handwritten notation "no contest plea," appellant's sentence, the judge's signature, and a time stamp. However, as noted above, the form does not contain a designation as a decision or judgment entry or both. In addition, although a trial court must enter its finding on a plea of guilty or no contest, *Williams*, 2007-Ohio-1897 at ¶12, the form fails to set forth a finding of guilty.[2] *Dickey*, 74 Ohio App.3d at 589. See, also, *State v. Sandlin*, Highland App. No. 05CA23, 2006-Ohio-5021 (although the trial court clearly found the defendant guilty since it imposed a sentence, Crim.R. 32(C) requires that the verdict itself be recorded in the court's journal. Without the journalization of this information, there is no judgment of conviction pursuant to Crim.R. 32(C), and thus, no appealable order).

{¶8} We find that the trial court failed to set forth a finding of guilt as required under Crim.R. 32(C). Because it fails to comply with Crim.R. 32(C), the trial court's docket form does not constitute a final, appealable order from which an appeal may be taken. Accordingly, this appeal is dismissed for lack of subject-matter jurisdiction. See *Dickey*; *Williams*.

{¶9} We realize the trial court's failure to set forth a finding of guilt on the form might simply have been an oversight. Nonetheless, as we stated in *Dickey*, "the addition of such language to the judgment entry would comport with the Criminal Rules without any undue burden on the trial court and avoid the necessity of this court engaging in the speculation and conjecture as to what happened." *Dickey* at 589. Further, "[h]owever hurried a court may be

2. We also note that there was no recitation of the facts underlying the offense by the state during the no contest plea hearing. Nor was there a waiver by appellant of such recitation.

in its efforts to reach the merits of a controversy, the integrity of * * * rules is dependent upon consistent enforcement because the only fair and reasonable alternative thereto is complete abandonment." *Miller v. Lint* (1980), 62 Ohio St.2d 209, 215.

{¶10} Appeal dismissed.

HENDRICKSON, P.J., and PIPER, J., concur.