

[Cite as *State v. Starkey*, 2009-Ohio-5481.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 92348

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

PAUL STARKEY

DEFENDANT-APPELLANT

**JUDGMENT:
DISMISSED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-424716

BEFORE: Dyke, P.J., Celebrezze, J., and Jones, J.
RELEASED: October 15, 2009

JOURNALIZED:

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N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this courts announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. II, Section 2(A)(1).

ANN DYKE, J.:

{¶ 1} Defendant-appellant, Paul Starkey ("appellant"), filed his notice of

appeal on October 31, 2008 challenging the trial court's classification of him as a sexual predator on October 24, 2002. The state filed a motion to dismiss the appeal, arguing it was untimely. For the reasons that follow, we find the state's argument persuasive and dismiss appellant's appeal.

{¶ 2} App.R. 4(A) provides in pertinent part:

{¶ 3} "A party shall file the notice of appeal required by App.R. 3 within thirty days of the later of entry of the judgment or order appealed * * *."

{¶ 4} App.R. 5(A) states, in relevant part:

{¶ 5} "(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:

{¶ 6} "(a) Criminal proceedings;

{¶ 7} "(b) Delinquency proceedings; and

{¶ 8} "(c) Serious youthful offender proceedings.

{¶ 9} "(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."

{¶ 10} Here, appellant did not file his appeal within 30 days as required by App.R. 4(A), nor did he seek leave to appeal under App.R. 5(A). His failure to comply with these two rules leaves this court without jurisdiction to entertain his appeal. See *State v. Hawkins*, Cuyahoga App. No. 85386, 2005-Ohio-4009.

The appeal, therefore, is dismissed.

Appeal dismissed.

It is ordered that appellee recover from appellant its costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

ANN DYKE, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and
LARRY A. JONES, J., CONCUR