

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2010-T-0034
SAUL KERBERT CUSTER,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Court of Common Pleas, Case No. 2010 CR 00083.

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).

Saul Kerbert Custer, pro se, Trumbull County Justice Center, 150 High Street, N.W., Warren, OH 44481 (Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} Appellant, Saul Kerbert Custer, pro se, filed a hand-written notice of appeal on March 8, 2010. There was no entry attached to his notice; however, it appears that he is attempting to appeal the jury verdicts finding him guilty on the charges of grand theft, breaking and entering, receiving stolen property, and possessing criminal tools. In addition, in reviewing his notice of appeal, it appears that appellant is also moving this court for a new trial.

{¶2} On March 12, 2010, appellee, the state of Ohio, filed a motion to dismiss this appeal for lack of a final appealable order due to the fact that appellant has been convicted by the trial court but has not yet been sentenced.

{¶3} Crim.R. 32(C) provides that “[a] judgment of conviction shall set forth the plea, the verdict or findings, *and the sentence*. ***” (Emphasis added.)

{¶4} Pursuant to R.C. 2953.02, a court of appeals only possesses jurisdiction to hear an appeal from a criminal case if the appeal is from a “judgment or final order.”

{¶5} Furthermore, the Supreme Court of Ohio has stated that “in a criminal case there must be a sentence which constitutes a judgment or a final order which amounts ‘to a disposition of the cause’ before there is a basis for appeal.” *State v. Chamberlain* (1964), 177 Ohio St. 104, 106-107.

{¶6} A review of the trial court docket readily confirms appellee’s assertion that appellant has not been sentenced in this matter. Without the imposition of his sentence, there is currently no judgment entry which could be the subject of an appeal.

{¶7} Additionally, in *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, at ¶18, the Supreme Court of Ohio held as follows:

{¶8} “[a] judgment of conviction is a final appealable order under R.C. 2505.02 when it sets forth (1) the guilty plea, the jury verdict, or the finding of the court upon which the conviction is based; (2) the sentence; (3) the signature of the judge; and (4) the time stamp showing journalization by the clerk of court.”

{¶9} In this case, there is no judgment of conviction which contains these elements for appellant to appeal to this court.

{¶10} We further note that as to appellant's motion for new trial contained in his notice of appeal, there are no provisions in the Ohio Rules of Appellate Procedure which would allow an appellate court to grant such relief. Thus, the motion is overruled.

{¶11} For the foregoing reasons, appellee's motion to dismiss is granted, and the appeal is dismissed for lack of a final appealable order.

{¶12} Appeal dismissed.

DIANE V. GRENDALL, J.,
COLLEEN MARY O'TOOLE, J.,
concur.