

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

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
-vs-	:	CASE NO. 2009-P-0038
JIMMIE LEE SANDERS,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Portage County Court of Common Pleas, Case No. 2002 CR 0198.

Judgment: Appeal dismissed.

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

Jimmie Lee Sanders, pro se, PID #10224-007, FCI Allenwood, P.O. Box 2000, White Deer, PA 17887 (Defendant-Appellant).

DIANE V. GRENDELL, J.

{¶1} On June 26, 2009, appellant, Jimmie Lee Sanders, filed a notice of appeal from an April 30, 2009 judgment of the Portage County Court of Common Pleas. Appellant's notice of appeal was due to be filed by Monday, June 1, 2009, which was not a holiday or a weekend. Thus, his appeal was untimely filed.

{¶2} App.R. 4(A) states:

{¶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} In the present case, appellant has neither complied with the thirty-day rule set forth in App.R. 4(A) nor sought leave to appeal under App.R. 5(A). Thus, this court is presently without jurisdiction to consider this appeal. In order to perfect his appeal of the trial court’s decision, appellant must file a motion for delayed appeal at the same time he files a notice of appeal pursuant to App.R. 5(A).

{¶11} Based upon the foregoing analysis, this appeal is hereby sua sponte dismissed as being untimely.

{¶12} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

COLLEEN MARY O’TOOLE, J.,

concur.