

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

STATE OF OHIO,

Plaintiff-Appellee,

- v -

FRANK J. BROOKS, JR.,

Defendant-Appellant.

CASE NO. 2021-T-0026

Criminal Appeal from the
Court of Common Pleas

Trial Court No. 2019 CR 00840

MEMORANDUM
OPINION

Decided: June 30, 2021
Judgment: Appeal dismissed

Dennis Watkins, Trumbull County Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481 (For Plaintiff-Appellee).

David L. Engler, Engler Law Firm, 181 Elm Road, N.E., Warren, OH 44483 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On June 7, 2021, appellant, Frank J. Brooks, Jr., through counsel, filed a notice of appeal from the trial court's May 5, 2021 entry sentencing appellant to serve six years in prison consecutive to his current prison sentence in Portage C.P. No. 19 CR 226 and pay a mandatory fine of \$10,000.

{¶2} A timely notice of appeal was due no later than June 4, 2021, which was not a holiday or weekend. The appeal is untimely by three days.

{¶3} “* * * [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.” App.R. 4(A)(1).

{¶4} “(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:

{¶5} “(a) Criminal proceedings; * * *

{¶6} “(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. * * *.” App.R. 5(A).

{¶7} 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 his appeal. Appellant has a remedy of filing an untimely criminal appeal under App.R. 5(A).

{¶8} Appeal dismissed, sua sponte, as untimely.

THOMAS R. WRIGHT, J.,

MATT LYNCH, J.,

concur.