

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

TIMOTHY J. HEINZ,

Plaintiff-Appellant,

- v -

STATE OF OHIO, et al.,

Defendants-Appellees.

CASE NO. 2022-P-0028

Civil Appeal from the
Court of Common Pleas

Trial Court No. 2021 CV 00249

MEMORANDUM
OPINION

Decided: July 18, 2022
Judgment: Appeal dismissed

Timothy J. Heinz, pro se, P.O. Box 1071, Ravenna, OH 44266 (Plaintiff-Appellant).

Dave Yost, Ohio Attorney General, and *Michael A. Walton*, Assistant Attorney General, State Office Tower, 30 East Broad Street, 16th Floor, Columbus, OH 43215-3428 (For Defendants-Appellees, State of Ohio and Attorney General Dave Yost).

Cooper D. Bowen and *Lisa M. Zaring*, Montgomery Jonson, LLP, 600 Vine Street, Suite 2650, Cincinnati, OH 45202 (For Defendants-Appellees, Judge Laurie J. Pittman, Clerk Jill Fankhauser and Sheriff David Doak).

Eric Fink, 11 River Street, Kent, OH 44240 (For Defendants-Appellees, Eric N. Lindsey and Eradal Inc.).

David J. Dirisamer, Barnes & Thornburg, LLP, 41 South High Street, Suite 3300, Columbus, OH 43215 (For Defendant-Appellee, U.S. Bank Trust, N.A. as Trustee for LSF9 Master Participation Trust).

Peter C. Kratcoski, Williams, Kratcoski & Can, LLC, 11 South River Street, Suite A, Kent, OH 44240 (For Defendant-Appellee, Peter C. Kratcoski, Esq.).

MARY JANE TRAPP, J.

{¶1} On June 3, 2022, Timothy J. Heinz filed this appeal. He filed a pro se motion for leave to appeal from two March 11, 2022 entries of the Portage County Court of Common Pleas: one which declared him a vexatious litigator and another granting summary judgment in favor of appellees. Mr. Heinz filed a prior appeal from the same March 11, 2022 entries, which we dismissed because he did not seek leave to proceed from this court. *Heinz v. State*, 11th Dist. Portage No. 2022-P-0019, 2022-Ohio-1369.

{¶2} A vexatious litigator must file an application for leave to proceed before the expiration of the 30-day period under App.R. 4(A). *RRL Holding Co. of Ohio, LLC v. Stewart*, 10th Dist. Franklin No. 20AP-493, 2021-Ohio-3989, ¶ 16. If a vexatious litigator files for leave after the expiration of the 30-day period, an appellate court lacks jurisdiction over the appeal. *See State ex rel. Sapp v. Franklin Cty. Court of Appeals*, 118 Ohio St.3d 368, 2008-Ohio-2637.

{¶3} In this matter, Mr. Heinz sought leave pursuant to R.C. 2323.52(D)(3), but he failed to file his notice of appeal within the 30-day period for filing under App.R. 4(A). Thus, this court lacks jurisdiction over this matter.

{¶4} Accordingly, the motion for leave to proceed is overruled and this appeal is dismissed as untimely.

MATT LYNCH, J.,

JOHN J. EKLUND, J.,

concur.