

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

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

RANDY PENCE,

Defendant-Appellant.

CASE NO. 2022-T-0062

Criminal Appeal from the
Warren Municipal Court

Trial Court No. 2022 CRB 000275

MEMORANDUM
OPINION

Decided: July 18, 2022
Judgment: Appeal dismissed

Nicholas J. Graham, Warren City Assistant Law Director, 141 South Street, Warren, OH 44483 (For Plaintiff-Appellee).

Randy Pence, pro se, P.O. Box 1002, Warren, OH 44481 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On June 16, 2022, appellant, Randy Pence, pro se, filed a notice of appeal in the Warren Municipal Court. Appellant appeals the court's May 16, 2022 entry which found him guilty of disorderly conduct and sentenced him to serve 30 days in jail, with 12 days suspended; pay a \$50 fine; and one year probation.

{¶2} A timely notice of appeal was due no later than June 15, 2022, which was not a weekend or a holiday. Thus, the appeal is untimely by one day.

{¶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} However, an appellant make seek leave to file an untimely criminal appeal by strictly following App.R. 5(A) which provides:

{¶5} “(1) After the expiration of the thirty day period provided by App.R. 4(A) for filing 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} “(2) A motion for leave to appeal shall be filed with the court of appeals and shall set for forth the reasons for the failure of the appellant to perfect an appeal as of right. Concurrently with the filing of the motion, the movant shall file with the clerk of the trial court a notice of appeal in the form prescribed by App.R. 3 and shall file a copy of the notice of appeal in the court of appeals. The movant also shall furnish an additional copy of the notice of appeal and a copy of the motion for leave to the clerk of the court of appeals who shall serve the notice of appeal and the motion upon the prosecuting attorney.”

{¶8} Because 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), this court is without jurisdiction to consider the appeal. Appeal dismissed, sua sponte, as untimely.

THOMAS R. WRIGHT, P.J.,

MATT LYNCH, J.,

concur.