

[Cite as *State v. Huntley*, 2001-Ohio-2556.]

IN THE COURT OF APPEALS OF OHIO  
FOURTH APPELLATE DISTRICT  
HOCKING COUNTY

State of Ohio,

Plaintiff-Appellee,

No. 01CA16

v.

Harmon C. Huntley,

**DECISION & JUDGMENT**

Defendant-Appellant.

**ENTRY**

Released 8/20/01

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APPEARANCES:

COUNSEL FOR APPELLANT: James M. Linehan, Lancaster, Ohio

COUNSEL FOR APPELLEE: Larry Beal, Hocking County Prosecuting  
Attorney, Logan, Ohio

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**KLINE, J.:**

It appearing that this appeal was not timely filed because the Judgment Entry from which appellant appeals was filed on May 4, 2001 and the Notice of Appeal was filed on July 16, 2001, this court ordered appellant to file a memorandum addressing that jurisdictional issue. Appellant filed a Memorandum asserting that the trial court provided extensions of time within which to file his notice of appeal, that the extensions were agreed to by the prosecuting attorney and thus, his notice of appeal should be considered as timely filed.

The filing of a timely notice of appeal is jurisdictional.

See, generally, *State v. Fisher* (1975), 46 Ohio App.2d 279; *Bosco v. City of Euclid* (1974), 38 Ohio App.2d 40; *Richards v. Indus-*

*Trial Commission* (1955), 163 Ohio St. 439. **The time for filing a notice of appeal is governed by App.R. 4 and, pursuant to App.R. 14(B), a court may not enlarge the time for filing a notice of appeal.** *Ross v. Harden* (1982), 8 Ohio App.3d 34. The time to file a timely notice of appeal began to run on May 4, 2001. A timely appeal could have been filed no later than thirty days thereafter or June 4, 2001 [June 3, 2001 was a Sunday.] Appellant's Notice of Appeal was filed on July 16, 2001.

Upon consideration, this court finds that the notice of appeal was not filed within the time provided by App.R. 4. Accordingly, the court finds that it is without jurisdiction to consider this appeal. A delayed appeal may be available to appellant if filed in accordance with App.R. 5(A). Appellant is directed to App.R. 5(A) in this regard.

**APPEAL DISMISSED.**

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No. 01CA16, Hocking County

**JUDGMENT ENTRY**

It is ordered that the **APPEAL BE DISMISSED** and that appellee recover of appellant costs herein taxed.

It is further ordered that a special mandate issue out of this Court directing the Hocking County Common Pleas Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure. Exceptions.

Harsha, J. and Evans, J. Concur

**FOR THE COURT**

By: \_\_\_\_\_  
Roger L. Kline, Administrative Judge

**NOTICE TO COUNSEL**

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the