

COURT OF APPEALS OF OHIO, ELEVENTH APPELLATE DISTRICT, LAKE COUNTY

State v. Hopper

2026-Ohio-315 · No. 2025-L-094 · Decided February 2, 2026

SUMMARY

The Ohio Court of Appeals for the Eleventh District dismissed an appeal by City Bonding and Universal Fire and Casualty Insurance Company as untimely. The court held that the appellants were not defendants and therefore could not seek a delayed appeal under Ohio Appellate Rule 5(A).

CASE DETAILS

COURT	Court of Appeals of Ohio, Eleventh Appellate District, Lake County
WRITING FOR THE COURT	Robert J. Patton; Matt Lynch; Scott Lynch
JURISDICTION	Ohio Court of Appeals, Eleventh Appellate District, Lake County
DECIDED	February 2, 2026
DOCKET	2025-L-094
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellants sought review of an order denying their motion to vacate a bond-forfeiture judgment and filed a motion for delayed appeal after the thirty-day deadline had expired.
STANDARD OF REVIEW	The court applied the jurisdictional requirements governing the timeliness of a notice of appeal and the availability of a delayed appeal under the Ohio Rules of Appellate Procedure.
PRECEDENTIAL VALUE	Published
PARTIES	City Bonding, Universal Fire and Casualty Insurance Company v. State of Ohio

TOPICS

- appellate jurisdiction
- appellate procedure
- final judgment rule
- criminal procedure
- bail

PRACTICE AREAS

- appellate procedure
- criminal procedure
- bail

QUESTIONS PRESENTED

1. Whether the appeal was timely under Ohio Appellate Rule 4(A)(1).
2. Whether non-defendant parties may seek leave to file a delayed appeal under Ohio Appellate Rule 5(A).

HOLDINGS

1. A notice of appeal from an order final upon entry must be filed within thirty days under Ohio Appellate Rule 4(A)(1), and failure to comply with that time requirement is a jurisdictional defect fatal to the appeal.
2. Ohio Appellate Rule 5(A) does not extend the right to seek a delayed appeal to non-defendant parties; only a defendant may file a motion for delayed appeal after the thirty-day period has expired.

KEY QUOTATIONS

“ “[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.” ” (¶ 3)

“Because the appeal is untimely and only a defendant may file a motion for delayed appeal after the expiration of the thirty-day period, appellants’ motion for leave to file a delayed appeal is overruled, and the appeal is hereby dismissed.” (¶ 6)

FACTUAL BACKGROUND

The trial court entered an order on June 13, 2025, denying City Bonding and Universal Fire and Casualty Insurance Company's motion to vacate a judgment of bond forfeiture. A notice of appeal was due by July 14, 2025, but appellants filed their notice and motion for delayed appeal on July 31, 2025. The appellate court concluded that the appeal was untimely and that Appellate Rule 5(A) permits delayed appeals only for defendants, not for appellants who were non-defendant parties.

PROCEDURAL HISTORY

The Lake County Court of Common Pleas denied appellants' motion to vacate the judgment of bond forfeiture on June 13, 2025. Appellants filed a notice of appeal and motion for delayed appeal on July 31, 2025, seventeen days after the July 14, 2025 deadline. The Eleventh District overruled the motion for delayed appeal and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- In re H.F., 2008-Ohio-6810, ¶ 17
- State ex rel. Pendell v. Adams Cty. Bd. of Elections, 40 Ohio St.3d 58, 60 (1988)

OPINION

PER CURIAM.

[Cite as State v. Hopper, 2026-Ohio-315.] IN THE COURT OF APPEALS OF OHIO ELEVENTH APPELLATE DISTRICT LAKE COUNTY STATE OF OHIO, CASE NO. 2025-L-094 Plaintiff-Appellee, Criminal Appeal from the - vs - Court of Common Pleas CORTEZ O. HOPPER, Trial Court No. 2024 CR 000015 Defendant, (CITY BONDING, et al., Appellants). MEMORANDUM OPINION AND JUDGMENT ENTRY Decided: February 2, 2026 Judgment: Appeal dismissed Charles E. Coulson, Lake County Prosecutor, Lake County Administration Building, 105 Main Street, P.O.

Box 490, Painesville, OH 44077 (For Plaintiff-Appellee). Timothy J. Kucharski, Richarson & Kucharski Co., L.P.A., 1200 West Third Street, Suite 190, Cleveland, OH 44113 (For Appellants). ROBERT J. PATTON, J. {¶1} On July 31, 2025, appellants, City Bonding and Universal Fire and Casualty Insurance Company, through counsel, filed a notice of appeal and a motion for delayed appeal. {¶2} Appellants seek to appeal from the trial court's June 13, 2025 entry denying their motion to vacate the judgment of bond forfeiture.

A timely notice of appeal from the June 13, 2025 entry was due no later than July 14, 2025, which was not a holiday or weekend. The appeal is untimely by 17 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} The Supreme Court has held that the failure to comply with the time requirements of App.R.

4(A) is a jurisdictional defect, which is fatal to an appeal. In re H.F., 2008-Ohio-6810, ¶ 17, citing State ex rel. Pendell v. Adams Cty. Bd. of Elections, 40 Ohio St.3d 58, 60 (1988). {¶5} App.R. 5(A) provides that, in specific types of cases, a defendant may request leave to file an appeal beyond the thirty-day period prescribed by App.R. 4(A).

The rule does not extend the right to non-defendants or other parties to the matter. {¶6} Because the appeal is untimely and only a defendant may file a motion for delayed appeal after the expiration of the thirty-day period, appellants' motion for leave to file a delayed appeal is overruled, and the appeal is hereby dismissed. MATT LYNCH, P.J., SCOTT LYNCH, J., concur.

PAGE 2 OF 3 Case No. 2025-L-094 JUDGMENT ENTRY For the reasons stated in the memorandum opinion of this court, it is ordered that appellants' motion for leave to file a delayed appeal is overruled, and the appeal is hereby dismissed. Costs to be taxed against appellants. JUDGE ROBERT J. PATTON PRESIDING JUDGE MATT LYNCH, concurs JUDGE SCOTT LYNCH, concurs THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.

PAGE 3 OF 3 Case No. 2025-L-094

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