

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-080700
Plaintiff-Appellee,	:	TRIAL NO. B-0607374
vs.	:	<i>JUDGMENT ENTRY.</i>
JAMES MILLER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

In two assignments of error, defendant-appellant James Miller challenges the validity of his guilty plea and alleges that his trial counsel was ineffective.

In 2006, Miller pleaded guilty to unlawful sexual contact with a minor.² He was placed on three years of community control. He violated his community control in 2008, and now in this appeal, he challenges for the first time the validity of his 2006 guilty plea and the effectiveness of his counsel at that time.

Miller argues that his guilty plea was not knowingly, intelligently, and voluntarily made. In support of this argument, Miller asserts, that because the plea form incorrectly stated that the potential sentencing range was zero to five years' incarceration, rather than one to five years' incarceration, and because he allegedly was not advised of his duties to register as a sexual offender, the trial court's acceptance of his guilty plea was improper.

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² R.C. 2907.04(A).

OHIO FIRST DISTRICT COURT OF APPEALS

Miller was convicted and sentenced in December 2006, and he did not move to vacate his conviction or contest the effectiveness of counsel until after—and undoubtedly because—he had violated his community control, over two years later. Miller neither gave notice of appeal within 30 days under App.R. 4 nor moved for a delayed appeal under App.R. 5. Because Miller’s appeal is outside of the time limitation in which to give notice of appeal, this court lacks jurisdiction to consider his assignments of error.³ This appeal is, accordingly, dismissed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

PAINTER, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on July 1, 2009

per order of the Court _____
Presiding Judge

³ See *State v. Thompson*, 8th Dist. No. 82274, 2003-Ohio-4405; *State v. Lopez*, 8th Dist. No. 85306, 2005-Ohio-3711.