

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RYAN RESOP,	§	
	§	No. 130, 2017
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware
v.	§	
	§	Cr. ID No. 0701010111
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: April 6, 2017
Decided: April 27, 2017

Before **STRINE**, Chief Justice, **VAUGHN**, and **SEITZ**, Justices.

ORDER

This 27th day of April 2017, it appears to the Court that:

(1) On March 21, 2017, the Court received Ryan Resop’s notice of appeal from a Superior Court order dated and docketed on February 15, 2017, denying his motion for postconviction relief. Under Supreme Court Rule 6, a timely notice of appeal should have been filed on or before March 17, 2017.

(2) On March 21, 2017, the Clerk issued a notice directing Resop to show cause why the appeal should not be dismissed as untimely filed. In response to the notice, Resop contends that the appeal is timely because he filed it within thirty

days of February 19, 2017, the date he received the February 15 order. Resop's contention is unavailing.

(3) Under Rule 6(a)(iv), an appeal in any proceeding for postconviction relief must be filed within thirty days after entry upon the docket of the judgment or order being appealed.¹ The jurisdiction of the Court rests upon the appeal being filed within the thirty day period fixed by law.² The Court cannot consider an untimely appeal unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel.³

(4) Because the order in this case was entered upon the docket on February 15, the appeal was due on or before March 17. Resop did not file the notice of appeal until March 21. He has not demonstrated that his failure to file a timely appeal was due to court-related personnel. Under these circumstances, the Court concludes that the appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the appeal is DISMISSED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Justice

¹ Del. Supr. Ct. R. 6(a)(iv) (providing that a notice of appeal from an order in a postconviction proceeding must be filed within thirty days after entry upon the docket of the order from which the appeal is taken).

² *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

³ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).