

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THEODORIC R. DIXON,	§
	§ No. 8, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0904013826
	§
Plaintiff Below-	§
Appellee.	§

Submitted: January 30, 2012

Decided: February 3, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justice

ORDER

This 3rd day of February 2012, it appears to the Court that:

(1) On January 18, 2012, the Court received the appellant's notice of appeal from the Superior Court's order, dated and docketed on December 6, 2011, which denied his first motion for postconviction relief pursuant to Superior Court Rule 61. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the December 6, 2011 order should have been filed on or before January 5, 2012.

(2) On January 18, 2012, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his

response to the notice to show cause on January 30, 2012. The appellant states that he is ignorant of the appellate process. He also states that he did not receive the Superior Court's order until December 10, 2011, it takes 5-10 days to schedule an appointment at the prison library, and the day his unit was scheduled to go to the library, he had to attend a mandated group session.

(3) Pursuant to Rule 6(a) (iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the judgment or order being appealed. Time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of the Court within the applicable time period in order to be effective.² An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal may not be considered.⁴

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal is attributable to court-related personnel. Consequently, this case does not fall within the exception

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

to the general rule that mandates the timely filing of a notice of appeal.

Thus, the Court concludes that this appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice