

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERMAINE VESSELS,	§	
	§	No. 11, 2012
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	
	§	Cr. ID Nos. 0712022744
Plaintiff Below,	§	0801037171
Appellee.	§	

Submitted: January 18, 2012

Decided: February 3, 2012

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

**ORDER**

This 3<sup>rd</sup> day of February 2012, upon consideration of the Clerk’s notice to show cause and the appellant’s “motion for correction of sentence effective date,” which is deemed to be the appellant’s response to the notice to show cause, it appears to the Court that:

(1) On January 10, 2012, the appellant, Jermaine Vessels, filed a notice of appeal from the Superior Court’s November 30, 2011 order denying his “motion for credit time previously served.” On January 10, 2012, the Clerk issued a notice directing that Vessels show cause why the appeal should not be dismissed as untimely filed. Vessels filed a response to the notice to show cause on January 18, 2012.

(2) In his response to the notice to show cause, Vessels asks the Court to accept his appeal as timely filed on the grounds that he did not receive the November 30 order until December 5, 2011, and that any delay in filing the notice of appeal was reasonable in view of the holidays. Under Delaware law and procedure, Vessels' contentions are unavailing, and his request cannot be granted.

(3) "Time is a jurisdictional requirement."<sup>1</sup> To invoke this Court's appellate jurisdiction, a notice of appeal in a postconviction proceeding must be received by the Clerk<sup>2</sup> within "[w]ithin thirty days after entry upon the docket" of the order sought to be reviewed.<sup>3</sup>

(4) In this case, the Superior Court's November 30, 2011 order was entered on the docket on December 1, 2011. Thus, any appeal from the November 30 order was required to be filed with the Clerk on or before January 3, 2012.<sup>4</sup> Vessels did not file the notice of appeal until January 10, 2012.

(5) Vessels does not contend, and the record does not reflect, that his failure to file the notice of appeal by January 3, 2012 is attributable to

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

<sup>2</sup> Del. Supr. Ct. R. 10(a).

<sup>3</sup> Del. Supr. Ct. R. 6(a)(iii).

<sup>4</sup> *See* Del. Supr. Ct. R. 11(a) (providing that "[t]he last day of the period so computed shall be included, unless it is a Saturday or Sunday, or other legal holiday, or other day on which the office of the Clerk is closed, in which event the period shall run until the end of the next day on which the office of the Clerk is open.").

court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of an appeal.<sup>5</sup>

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 6(a)(iii) and 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>5</sup> See *Bey v. State*, 402 A.2d 362, 363 (Del. 1979) (permitting review of untimely appeal when delay was “occasioned by court related personnel”).