IN THE SUPREME COURT OF THE STATE OF DELAWARE

NORMAN T. HENRY,	§	
	§	No. 344, 2013
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court of
	§	the State of Delaware, in and for
v.	§	Sussex County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID 1206004571
Appellee.	§	

Submitted: July 8, 2013
Decided: July 25, 2013

Before **BERGER**, **JACOBS** and **RIDGELY**, Justices.

O R D E R

This 25th day of July 2013, it appears to the Court that:

(1) On July 1, 2013, Norman T. Henry, the defendant-below ("Henry") filed a notice of appeal from his Superior Court guilty plea and sentencing on August 20, 2012. On its face, the notice of appeal was untimely filed.[1]

[1] The appeal was due on or before September 19, 2012. *See* DEL. SUPR. CT. R. 6(a)(ii) (providing that an appeal from a criminal conviction must be filed within thirty days of sentencing).

(2) On July 1, 2013, the Clerk issued a notice directing that Henry show cause why the appeal should not be dismissed as untimely filed.[2] Henry filed a response to the notice to show cause on July 8, 2013.

(3) In his response to the notice to show cause, Henry contends that he "made it clear" to his defense counsel that he wanted to appeal the August 20, 2012 guilty plea. According to Henry, his defense counsel deliberately did not file the appeal because defense counsel "knew he mess[ed] up" when he allegedly "withheld [a] medication examination report."

(4) Under Delaware law, "[t]ime is a jurisdictional requirement."[3] A notice of appeal must be received by the office of the Clerk within the thirty-day time period to be effective.[4] An untimely appeal cannot be considered unless an appellant can demonstrate that the failure to timely file a notice of appeal is attributable to court-related personnel.[5]

(5) In this case, Henry does not contend that his failure to file a timely notice of appeal is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule

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[2] DEL. SUPR. CT. R. 29(b).

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

[4] DEL. SUPR. CT. R. 10(a).

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

that mandates the timely filing of a notice of appeal, and the appeal must be dismissed.[6]

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

[6] Henry can raise his ineffective assistance of counsel claim in a Superior Court postconviction motion. *Dixon v. State*, 581 A.2d 1115 (Del. 1990); *Braxton v. State*, 479 A.2d 831 (Del. 1984).