

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANDRE A. RIVERA,	§
	§
Defendant Below-	§ No. 197, 2014
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 9503004907
Plaintiff Below-	§
Appellee.	§

Submitted: June 2, 2014

Decided: June 9, 2014

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

**ORDER**

This 9th day of June 2014, it appears to the Court that:

(1) On April 21, 2014, the Court received appellant’s notice of appeal from a Superior Court order, dated March 17, 2014, which denied his fifth motion for postconviction relief. Under Supreme Court Rule 6, a timely notice of appeal should have been filed on or before April 16, 2014.

(2) The Clerk issued a notice directing appellant to show cause why the appeal should not be dismissed as untimely filed.<sup>1</sup> Appellant filed a response to the notice to show cause on June 2, 2014. Appellant asserts that he was unaware of the 30-day deadline for filing his notice of appeal. He further asserts that he was

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<sup>1</sup>Del. Supr. Ct. R. 6(a)(iii) (2014).

dependent upon other inmates, who were not in the same housing unit, for instructions on how to file his appeal. He asks that his appeal not be dismissed.

(3) Time, however, is a jurisdictional requirement.<sup>2</sup> A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.<sup>3</sup> An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.<sup>4</sup> Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.<sup>5</sup>

(4) Appellant does not assert that court personnel are responsible for his untimely filing. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

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

BY THE COURT:

/s/ Leo E. Strine, Jr.  
Chief Justice

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<sup>2</sup>*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

<sup>3</sup>Del. Supr. Ct. R. 10(a) (2014).

<sup>4</sup>*Smith v. State*, 47 A.3d 481, 486-87 (Del. 2012).

<sup>5</sup>*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).