IN THE SUPREME COURT OF THE STATE OF DELAWARE

JARREAU A. AYERS,	§
	§ No. 1, 2013 ¹
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID Nos. 1106014092
	§ 1012006345
Plaintiff Below-	§
Appellee.	§

Submitted: January 14, 2013 Decided: January 25, 2013

Before HOLLAND, BERGER and JACOBS, Justices

ORDER

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

(1) On January 2, 2013, the Court received the appellant's notice of appeal from the November 28, 2012 report of the Superior Court Commissioner recommending denial of his motion for postconviction relief. On January 3, 2013, 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.² The appellant filed his response to the notice to show cause on January 14, 2013. The appellant states that he "sent"

² Supr. Ct. R. 6.

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¹ The appellant erroneously captioned his filings in this appeal under No. 624, 2012.

out" his notice of appeal on December 26, 2012, and does not understand why it did not reach the Supreme Court within the time limit.

(2) Rule 6(a) (iii) requires that a notice of appeal in any proceeding for postconviction relief be filed within thirty days after entry upon the docket of the judgment or order being appealed. However, the appellant has not appealed from a judgment or order of the Superior Court, but from the recommendation of the Superior Court Commissioner. This Court does not have jurisdiction to consider an appeal directly from the recommendation of a Superior Court Commissioner.³ As such, we conclude that this appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.⁴

BY THE COURT:

<u>/s/ Carolyn Berger</u> Justice

³ Del. Const. art. IV, §11(1) (b); Super. Ct. Crim. R. 62(a) (5).

⁴ In his notice of appeal, the appellant states that he will file another appeal from the Superior Court's final order, once it is issued.