IN THE SUPREME COURT OF THE STATE OF DELAWARE

KASON CHRISTMAS, §

Defendant Below- § No. 106, 2013

Appellant,

§

v. § Court Below—Superior Court

§ of the State of Delaware,

STATE OF DELAWARE, § in and for New Castle County

§ Cr. ID 1012003877

Plaintiff Below- § Appellee. §

Submitted: March 25, 2013 Decided: April 3, 2013

Before STEELE, Chief Justice, JACOBS, and RIDGELY, Justices.

ORDER

This 3rd day of April 2013, it appears to the Court that:

- (1) On March 11, 2012, the Court received appellant's notice of appeal from a Superior Court order dated January 31, 2013. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before March 4, 2012.
- (2) The Senior Court Clerk issued a notice to appellant directing him to show cause why the appeal should not be dismissed as untimely.¹ Appellant filed a response to the notice to show cause on March 25, 2013. He asserts that he is a prisoner and was not able to get to the prison law library to obtain the necessary

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¹Del. Supr. Ct. R. 6(a)(iii) (2013).

forms until after the filing deadline. He requests that his untimely filing be

excused because it was unintentional.

(3) In Delaware, time is a jurisdictional requirement.² 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.³ An appellant's pro se or incarcerated status does

not excuse a failure to comply strictly with the jurisdictional requirements of

Supreme Court Rule 6.4 Unless an appellant can demonstrate that the failure to file

a timely notice of appeal is attributable to court-related personnel, his appeal

cannot be considered.⁵

(4) Prison personnel are not court-related personnel. Consequently, this

case does not fall within the exception to the general rule that mandates the timely

filing of a notice of appeal. Thus, this 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/ Henry duPont Ridgely

Justice

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

³Del. Supr. Ct. R. 10(a).

⁴ Smith v. State, 47 A.3d 481, 482 (Del. 2012).

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

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