

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GWENDOLYN S. WALLACE,	§
	§
Defendant Below-	§ No. 320, 2013
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 1203000756
Plaintiff Below-	§
Appellee.	§

Submitted: July 10, 2013

Decided: July 16, 2013

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

ORDER

This 16th day of July 2013, it appears to the Court that:

(1) On June 19, 2013, the Court received appellant’s notice of appeal from a Superior Court violation of probation sentencing order entered on May 17, 2013. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before June 17, 2013.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be dismissed as untimely filed.¹ Appellant filed a response to the notice to

¹Del. Supr. Ct. R. 6(a)(ii).

show cause on June 28, 2013. She asserts that her appeal was untimely because she had to wait for a correctional officer to sign the required certification on her motion to proceed *in forma pauperis*. The State has filed an answer in opposition to appellant's response, arguing that the motion to proceed *in forma pauperis* was not required in order to file the notice of appeal and, moreover, that any delay caused by prison personnel is not a basis for excusing appellant's untimely filing.

(3) The State's position is correct. 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 status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, her appeal cannot be considered.⁵

(4) Prison personnel are not court-related personnel. Consequently, even assuming prison personnel delayed in signing appellant's certification on her motion to proceed *in forma pauperis*, this

²*Carr 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, 486-87 (Del. 2012).

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

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/ Carolyn Berger
Justice