

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ARTHUR STONER, ¹	§	
	§	No. 223, 2018
Respondent Below,	§	
Appellant,	§	Court Below: Family Court
	§	of the State of Delaware in and for
v.	§	New Castle County
	§	
STATE OF DELAWARE,	§	File No. 1711009911
	§	
Petitioner Below,	§	
Appellee.	§	

Submitted: May 17, 2018
Decided: July 11, 2018

Before **VAUGHN, SEITZ, and TRAYNOR**, Justices.

ORDER

(1) On April 27, 2018, the appellant’s counsel (“Counsel”) filed a notice of appeal from the Family Court’s adjudication of delinquency and order of commitment on March 27, 2018. The appeal was filed one day after the expiration of the thirty-day appeal period.² When a notice of appeal is not filed within the applicable time period, the Court is without jurisdiction to hear the appeal.³

(2) Counsel was directed to show cause why the appeal should not be dismissed as untimely filed. Counsel filed a response to the notice, conceding that

¹ The Court assigned a pseudonym to the appellant, a juvenile, under Supreme Court Rule 7(d).

² Del. Sup. Ct. R. 6(a).

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

the appeal was untimely filed and that the delay in filing the appeal was not attributable to court-related personnel.

(3) In the absence of unusual circumstances that are not attributable to the appellant or Counsel, the delay in filing the notice of appeal cannot be excused.⁴ Under the circumstances, however, the Court will remand this matter to the Family Court with instructions to vacate the March 27, 2018 order of commitment and to reimpose the commitment so that Counsel may file a timely appeal. Remanding the matter to reimpose the commitment will provide a complete remedy for Counsel's admitted failure to file a timely appeal on behalf of the appellant.⁵

NOW, THEREFORE, IT IS ORDERED that this matter is REMANDED to the Family Court for further action in accordance with this Order. Jurisdiction is not retained.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Justice

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁵ Del. Sup. Ct. R. 26(a); *Middlebrook v. State*, 815 A.2d 739, 742–43 (Del. 2003).