

IN THE SUPREME COURT OF THE STATE OF DELAWARE

| | | |
|--------------------|---|------------------------------|
| SPENCER LEE KEYS, | § | |
| | § | |
| Defendant Below, | § | No. 127, 2021 |
| Appellant, | § | |
| | § | Court Below - Superior Court |
| v. | § | of the State of Delaware |
| | § | |
| STATE OF DELAWARE, | § | Cr. ID No. 1810001625 (S) |
| | § | |
| Plaintiff Below, | § | |
| Appellee. | § | |

Submitted: June 4, 2021
Decided: June 22, 2021

Before **SEITZ**, Chief Justice; **VALIHURA** and **MONTGOMERY-REEVES**, Justices.

ORDER

After consideration of the notice to show cause and the response, it appears to the Court that:

(1) On April 27, 2021, the appellant, Spencer Lee Keys, filed a notice of appeal from his conviction in the Superior Court. The Superior Court sentenced Keys on November 13, 2019. Under Supreme Court Rules 6 and 11, a timely notice of appeal should have been filed on or before December 13, 2019.

(2) The Senior Court Clerk issued a notice directing Keys to show cause why this appeal should not be dismissed as untimely filed. In response to the notice to show cause, Keys states that he was unaware of the deadline for filing an appeal.

This Court lacks jurisdiction to consider an appeal when the notice of appeal is not timely filed, unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel.¹ A notice of appeal must be received by the Court within the applicable time period to be effective.² The failure to file a timely appeal in this case is not attributable to court-related personnel. Therefore, the appeal must be dismissed.

(3) Keys also suggests that he is attempting to appeal the Superior Court's order denying his motion for sentence reduction and his motion for postconviction relief. Keys did not identify that order in the notice of appeal as the subject of this appeal. Nor did Keys file the notice of appeal within the required period with respect to that order. The Superior Court order denying the motions for sentence reduction and for postconviction relief was dated September 9, 2020 and docketed on September 10, 2020. Thus, a timely notice of appeal should have been filed on or before October 12, 2020. Keys states that he was unaware that the Superior Court had denied his motions until after he requested a copy of the docket on February 5, 2021, and then requested a copy of the order on March 8, 2021. He admits that he received a copy of the order by March 17, 2021. Even assuming that a notice of

¹ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

² DEL. SUPR. CT. R. 10(a).

appeal filed within thirty days of his receipt of the order would be timely, he did not file within that period.

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

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice