

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALEJANDRO RODRIGUEZ-
ORTIZ,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,
Appellee.

§

§ No. 278, 2021

§

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§ Court Below–Superior Court
§ of the State of Delaware

§

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§ Cr. ID No. 0810017618(N)

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0905024913(N)

Submitted: September 16, 2021

Decided: September 24, 2021

Before **VAUGHN, TRAYNOR**, and **MONTGOMERY-REEVES**, Justices.

ORDER

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

(1) On September 3, 2021, the appellant, Alejandro Rodriguez-Ortiz, filed a notice of appeal from the Superior Court's July 15, 2021 order denying his motion for postconviction relief. Under Supreme Court Rule 6(a)(iv), a timely notice of appeal should have been filed on or before August 16, 2021.¹

¹ Because the thirtieth day fell on a Saturday, the notice of appeal was due the next business day, or Monday, August 16, 2021. Del. Supr. Ct. R. 11(a).

(2) On September 7, 2021, the Senior Court Clerk issued a notice directing Rodriguez-Ortiz to show cause why his appeal should not be dismissed as untimely filed. In his response to the notice to show cause, Rodriguez-Ortiz alleges that he failed to file a timely notice of appeal because of delays at the prison law library.

(3) Time is a jurisdictional requirement.² A notice of appeal must be received by the Court within the applicable time period to be effective.³ An appellant's prisoner *pro se* status does not excuse his failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless an appellant can demonstrate that his failure to file a timely notice of appeal is attributable to court-related personnel, the appeal cannot be considered.⁵

(4) There is nothing in the record that reflects that Rodriguez-Ortiz's failure to file a timely notice of appeal in this case is attributable to 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, and this appeal must be dismissed.

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

³ Del. Supr. Ct. R. 10(a).

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

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

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

BY THE COURT:

/s/ Gary F. Traynor
Justice