

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRANDON DIXON,	§
	§
Defendant Below,	§ No. 129, 2022
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1703012089 (N)
	§
Appellee.	§

Submitted: May 2, 2022

Decided: May 16, 2022

Before **SEITZ**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

ORDER

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

(1) On April 13, 2022, the appellant, Brandon Dixon, filed a notice of appeal from a Superior Court order, dated March 26, 2020, denying his first motion for postconviction relief under Superior Court Criminal Rule 61. Normally a timely notice of appeal should have been filed within thirty days of entry of the order,¹ but that time period was expended until July 2, 2020 due to the COVID-19 pandemic.²

¹ Supr. Ct. R. 6(a)(iv).

² Administrative Order No. 7 § 7 (June 5, 2020) (extending deadlines that expired between March 23, 2020 and June 30, 2020 through July 1, 2020).

The Senior Court Clerk issued a notice directing Dixon to show cause why this appeal should not be dismissed as untimely filed.

(2) In his response to the notice to show cause, Dixon stated that he did not learn of the order until April 2022. He requested additional time to obtain a copy of the prison mail log, which he said would show that he did not receive any mail from the Superior Court during the relevant time period.

(3) At the Court's request, the appellee filed an answer to Dixon's response. The answer included a copy of Dixon's incoming legal/certified mail log for March 2020 showing that he received and signed for correspondence from the Superior Court on March 31, 2020.

(4) Time is a jurisdictional requirement.³ 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.⁴ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.⁵

(5) Dixon's response to the notice to show cause does not provide a basis for excusing his untimely appeal. Other than the March 26, 2020 order, the Superior Court docket does not reflect anything that Dixon would have received by mail on

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

⁴ Supr. Ct. R. 10(a).

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

March 31, 2020. Thus, it appears that he received the March 26, 2020 order on March 31, 2020. Dixon has not shown that his failure to file a timely notice of appeal 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.

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

BY THE COURT:

/s/ Karen L. Valihura
Justice