

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NYAIR SMALL,	§
	§
Defendant Below,	§ No. 203, 2026
Appellant,	§
	§ Court Below: Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 2310007747 (N)
	§
Appellee.	§

Submitted: June 10, 2026
Decided: June 17, 2026

Before **SEITZ**, Chief Justice; **LEGROW** and **GRIFFITHS**, Justices.

ORDER

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

(1) On May 15, 2026, the appellant, Nyair Small, filed a notice of appeal from a Superior Court order denying Small’s motion for correction of an illegal sentence. The Superior Court’s order was dated and docketed on April 9, 2026. The Senior Court Clerk issued a notice directing Small to show cause why the appeal should not be dismissed as untimely filed.

(2) In response to the notice to show cause, Small states that he received the Superior Court’s order on April 13, 2026, and gave his notice of appeal to a Department of Correction officer for mailing on May 12, 2026. He therefore

contends that the appeal was timely filed. The State asserts that the deadline for filing an appeal was May 8, 2026; Small's prison mail log reflects that Small sent mail to the Supreme Court on May 13, 2026; and the appeal is therefore untimely.

(3) The appellate jurisdiction of this Court rests upon perfecting an appeal within the applicable time period.¹ Unless the appellant satisfies 10 *Del. C.* § 147(b)(1) and Supreme Court Rule 6(a)(iii)(C) or can demonstrate that his failure to file a timely notice of appeal is attributable to court-related personnel, a notice of appeal must be received by the Court within the applicable time period to be effective.²

(4) Small's appeal was due within thirty days of April 9, 2026, when the Superior Court's order was docketed.³ Because the thirtieth day fell on Saturday May 9, the last day for filing the appeal was Monday May 11, 2026.⁴ Small contends that he gave the notice of appeal to a prison official on May 12, 2025, and the prison mail log reflects that he sent mail to the Supreme Court on May 13. The appeal is therefore untimely and must be dismissed.⁵

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² *Price v. State*, 2025 WL 2304986, at *1 (Del. Aug. 8, 2025).

³ DEL. SUPR. CT. R. 6(a)(iii).

⁴ *Id.* R. 11(a).

⁵ *See Price*, 2025 WL 2304986, at *2 (“Price does not contend, nor do prison records reflect, that he placed the notice [of] appeal in the prison’s internal mail system on or before July 2, 2025, the last day for filing an appeal from the Superior Court’s June 2, 2025 order. Nor has he demonstrated that the untimely filing is attributable to court-related personnel. The appeal therefore must be dismissed.”).

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

BY THE COURT:

/s/ N. Christopher Griffiths
Justice