

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ERIC KEMSKE,	§
	§ No. 187, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0503003266
	§
Plaintiff Below-	§
Appellee.	§

Submitted: April 22, 2008
Decided: April 29, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 29th day of April 2008, it appears to the Court that:

(1) On April 15, 2008, the Court received the appellant’s notice of appeal from the Superior Court’s March 11, 2008 order summarily dismissing his motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the March 11, 2008 order, which was docketed on the same date, should have been filed on or before April 10, 2008.

(2) On April 15, 2008, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the

appeal should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on April 22, 2008. The appellant states that he received the Superior Court's order on March 13 or 14, 2008; he was aware of the deadline for filing a notice of appeal; and he mailed his notice of appeal to the Court on April 11, 2008, believing that it would be timely filed. Pursuant to Supreme Court Rule 6(a) (iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the judgment or order being appealed.

(3) Time is a jurisdictional requirement.¹ 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.² An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁴

(4) There is nothing in the record that reflects that the appellant's failure to file a timely notice of appeal in this case is attributable to court-

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

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

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

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. Thus, the Court concludes that the within appeal must be dismissed.

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

BY THE COURT:

/s/ Myron T. Steele

Chief Justice