

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LESTER STANFORD,	§
	§ No. 313, 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. 0706033494
	§
Plaintiff Below-	§
Appellee.	§

Submitted: July 1, 2008
Decided: July 18, 2008
Modified: July 25, 2008

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 25th day of July, upon consideration of the State's request for remand, it appears to the Court that:

(1) In December 2007, the defendant-appellant, Lester Stanford, pleaded guilty to Rape in the Fourth Degree and, on March 12, 2008, was sentenced to a prison term. On June 23, 2008, Stanford filed an untimely notice of appeal. The Clerk of the Court subsequently issued a notice to show cause why the appeal should not be dismissed as untimely.

(2) In his response to the notice to show cause, Stanford states that his appeal was not timely filed because either his attorney did not know he

wished to appeal or forgot that he wished to appeal. The Court requested the State to reply to Stanford's response to the notice to show cause.

(3) In its reply, the State urges that, in these circumstances, the matter should be remanded to the Superior Court for a determination of whether Stanford instructed his counsel to file an appeal.¹ Moreover, if the Superior Court determines that such an instruction was given, its March 12, 2008 sentencing order should be vacated and Stanford re-sentenced, with the assistance of counsel, so that a timely appeal might be filed.

(4) In the interest of justice, we conclude that this matter should be remanded to the Superior Court for an evidentiary hearing and further proceedings in accordance with this Order.

NOW, THEREFORE, IT IS ORDERED that this matter is hereby REMANDED to the Superior Court for further proceedings in accordance herewith. Jurisdiction is not retained.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ *Roe v. Flores-Ortega*, 528 U.S. 470, 485 (2000).