

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GERARD SZUBIELSKI,	§
	§
Defendant Below-	§ No. 375, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0605023366
Plaintiff Below-	§
Appellee.	§

Submitted: September 30, 2008

Decided: December 11, 2008

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

ORDER

This 11th day of December 2008, it appears to the Court that:

(1) On July 24, 2008, the Court received Gerard Szubielski's notice of appeal from a Superior Court order, dated June 20, 2008, which denied his second motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before July 22, 2008.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Szubielski to show cause why the appeal should not be

dismissed as untimely filed.¹ Szubielski filed two responses to the notice to show cause on September 29 and September 30, 2008. Szubielski contends that he was late filing the appeal because he was attempting to obtain legal assistance from his former counsel. Szubielski's response also argues the merits of the issue he wishes to raise on appeal.

(3) Time is a jurisdictional requirement.² 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.³ An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ 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.⁵

(4) There is nothing in the record to substantiate a claim that Szubielski'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

¹Del. Supr. Ct. R. 6(a)(ii).

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

³Del. Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

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

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