

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL ROBERTS,	§
	§ No. 174, 2010
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID Nos. 0609001737
	§ 0704016372
Plaintiff Below-	§
Appellee.	§

Submitted: April 6, 2010
Decided: April 15, 2010

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

ORDER

This 15th day of April 2010, it appears to the Court that:

(1) On March 29, 2010, the Court received the appellant's notice of appeal from the Superior Court's order, dated December 7, 2009 and docketed on December 8, 2009, which denied his motion for correction of sentence. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before January 7, 2010.

(2) On March 30, 2010, the Clerk issued a notice pursuant to 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 6, 2010. The appellant states that a) his appeal is

meritorious and b) he was not sent a copy of the Superior Court's order and was not aware that it had been docketed.

(3) Pursuant to 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. Time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of the 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 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 can not be considered.⁴

(4) There is nothing in the record reflecting that the appellant's failure to file a timely notice of appeal is attributable to court-related personnel. In spite of the appellant's statements to the contrary, the Superior Court's December 7, 2009 order reflects that it was sent to him. 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.

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).

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

BY THE COURT:

/s/Henry duPont Ridgely
Justice