

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DOMINIQUE HARPER,	§
	§ No. 737, 2010
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. 0911016438
	§
Plaintiff Below-	§
Appellee.	§

Submitted: December 9, 2010  
Decided: December 16, 2010

Before **HOLLAND, BERGER** and **JACOBS**, Justices

**ORDER**

This 16<sup>th</sup> day of December 2010, it appears to the Court that:

(1) On November 30, 2010, the Court received the appellant’s notice of appeal from the Superior Court’s October 26, 2010 violation of probation (“VOP”) sentencing order. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the October 26, 2010 order should have been filed on or before November 26, 2010.

(2) On December 1, 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 December 9, 2010. The appellant requests that his VOP sentence be modified, but does not explain why his appeal was untimely.

(3) Pursuant to Rule 6(a)(ii), a notice of appeal from a VOP sentence must be filed within 30 days after it is imposed. Time is a jurisdictional requirement.<sup>1</sup> 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.<sup>2</sup> An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.<sup>3</sup> Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal may not be considered.<sup>4</sup>

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal 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 notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

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

<sup>2</sup> Supr. Ct. R. 10(a).

<sup>3</sup> *Carr v. State*, 554 A.2d at 779.

<sup>4</sup> *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/ Carolyn Berger  
Justice