

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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| EDWARD MUJICA, | § |
| | § No. 252, 2021 |
| Defendant Below, | § |
| Appellant, | § |
| | § Court Below–Superior Court |
| v. | § of the State of Delaware |
| | § |
| STATE OF DELAWARE, | § Cr. ID No. 1812004090 (N) |
| | § |
| Plaintiff Below, | § |
| Appellee. | § |

Submitted: September 16, 2021
Decided: September 20, 2021

Before **VAUGHN, TRAYNOR**, and **MONTGOMERY-REEVES**, Justices.

ORDER

After careful consideration of the notice to show cause and the parties’ responses, it appears to the Court that:

(1) On August 9, 2021, the appellant, Edward Mujica, filed a notice of appeal from a May 3, 2021 Superior Court order denying his motion for postconviction relief. Under Rule 6(a)(iv), a timely notice of appeal should have been filed on or before June 2, 2021. The Senior Court Clerk issued a notice directing Mujica to show cause why this appeal should not be dismissed as untimely filed.

(2) In his response to the notice to show cause, Mujica states that he did not learn of the court’s order until after he inquired about the status of his motion for

postconviction relief in July 2021. Mujica, who claims that he was taken into federal custody and transferred from Howard R. Young Correctional Institution to York County Prison in Pennsylvania, further alleges that he did not receive a copy of the court's order until July 30, 2021. The State acknowledges that it does not appear that Mujica received timely notice of the Superior Court's May 3, 2021 order. In light of the evidence supporting Mujica's claim that he did not receive the Superior Court's order in a timely manner, the State suggests that this Court remand the matter with directions to the Superior Court to re-issue the May 2021 order so that Mujica has the opportunity to file a timely notice of appeal.

(3) We agree that the proper course of action is to remand this matter to the Superior Court. On remand, the Superior Court shall re-issue the May 2021 order.

NOW, THEREFORE, IT IS ORDERED that this matter is REMANDED to the Superior Court for further action in accordance with this order. Jurisdiction is not retained.

BY THE COURT:

/s/ Gary F. Traynor
Justice