

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BILLY G. JOHNSON,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,
Appellee.

No. 404, 2000

Court Below: Superior Court of
the State of Delaware in and for
New Castle County

Cr. A. No. VN96-07-0447-01
Cr. ID No. 9602013276

Submitted: August 30, 2000

Decided: September 14, 2000

Before **WALSH, HOLLAND** and **BERGER**, Justices.

ORDER

This 14th day of September 2000, it appears to the Court that:

(1) On August 21, 2000, the Court received the appellant's notice of appeal from a June 21, 2000, Order of Superior Court. Pursuant to Supreme Court Rule 6, a timely notice of appeal from a June 21, 2000, order should have been filed on or before July 21, 2000.

(2) On August 22, 2000, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal from the June 21, 2000, order should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on August 30, 2000. The

appellant's response is non-responsive. The appellant provides no explanation for waiting until August 21, 2000 to file an appeal from an order decided June 21, 2000. Pursuant to Supreme Court 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.

(3) Time is a jurisdictional requirement. *Carr v. State*, Del. Supr., 554 A.2d 778, 779, *cert. denied*, 493 U.S. 829 (1989). 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. Supr. Ct. R. 10(a). An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6. *Carr v. State*, 554 A.2d at 779. 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 *Bey v. State*, Del. Supr., 402 A.2d 362, 363 (1979).

(4) There is nothing in the record that reflects that appellant'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 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/ Randy J. Holland
Justice