

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LESTER F. ANDERSON,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,
Appellee.

No. 315, 2000

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

Cr. ID No. 30109009DI

Submitted: July 17, 2000

Decided: July 27, 2000

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices.

ORDER

This 27th day of July 2000, it appears to the Court that:

(1) On June 28, 2000, the Court received the appellant's notice of appeal from a Superior Court order dated March 24, 2000. Pursuant to Supreme Court Rule 6, a timely notice of appeal from a March 24, 2000, order should have been filed on or before April 24, 2000.

(2) On June 28, 2000, the Assistant Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal from the March 24, 2000, should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on July 17, 2000,

wherein he stated that he mailed his notice of appeal on April 21, 2000, and blames the mail system at the correctional institution for his appeal not being filed on time. An independent review of the Superior Court docket sheet in this matter indicates that an appeal was filed in that court on April 26, 2000; however, even if the appeal had been filed in the Supreme Court on that date, it would have been untimely.

(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/Joseph T. Walsh
Justice