

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARK BIGBY,

Defendant Below,  
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,  
Appellee.

No. 287, 2000

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

Cr. A. Nos. IK99-02-0292 through -  
0294

Cr. ID No. 9901014470

Submitted: June 27, 2000

Decided: July 10, 2000

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

**ORDER**

This 10th day of July 2000, it appears to the Court that:

(1) On June 12, 2000, the Court received the appellant's notice of appeal from a Superior Court order dated May 10, 2000. Pursuant to Supreme Court Rule 6, a timely notice of appeal from a May 10, 2000, order should have been filed on or before June 9, 2000.

(2) On June 12, 2000, the Clerk issued a notice pursuant to Supreme Court 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 June

23, 2000, wherein he states that his attorney never came back into contact with him about his options as far as what he had to do to file an appeal.

(3) On June 27, 2000, in response to a letter request from the Clerk dated June 23, 2000, appellant's counsel filed a response to his client's response to the notice to show cause. In his letter, counsel points out that after sentencing he discussed with appellant his options and that appellant opted not to appeal his conviction. Counsel attaches to his letter a letter from appellant confirming that choice.

(4) Time is a jurisdictional requirement.<sup>1</sup> 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.<sup>2</sup> An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court 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 cannot be considered.<sup>4</sup>

(5) 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

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<sup>1</sup> *Carr v. State*, Del. Supr., 554 A.2d 778, 779, *cert. denied*, 493 U.S. 829 (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*, Del. Supr., 402 A.2d 362, 363 (1979).

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/ E. Norman Veasey  
Chief Justice