

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RAHEEM LOVE a/k/a RAYMOND	§
O. DEMBY,	§ No. 155, 2004
	§
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware,
v.	§ in and for Kent County
	§ Cr. ID No. 9511007512
STATE OF DELAWARE,	§
	§
Plaintiff Below,	§
Appellee.	§

Submitted: May 4, 2004
Decided: May 17, 2004

Before **BERGER, STEELE**, and **JACOBS**, Justices.

ORDER

This 17th day of May 2004, it appears to the Court that:

(1) The appellant, Raheem Love, filed a notice of appeal on April 23, 2004 from an order of the Superior Court dated March 17, 2004 and docketed on March 18, 2004. The Superior Court's order denied Love's motion for correction of an illegal sentence. On April 23, 2004, the Clerk of this Court issued a notice to Love to show cause why his appeal should not be dismissed for his failure to file his notice of appeal within the thirty-day appeal period. Love filed a response to the notice to show cause on May 4, 2004 stating that he

timely mailed his notice of appeal. He requests the Court to consider his appeal on its merits.

(2) Time is a jurisdictional requirement.¹ Timely filing requires that the notice of appeal “be filed in the office of the Clerk of this Court.”² This Court lacks jurisdiction to consider an appeal when the notice of appeal is not filed with the Clerk of this Court in a timely manner *unless* the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel. Love’s untimely filing in this case is not attributable to court-related personnel.³ Accordingly, this Court has no jurisdiction to hear this untimely appeal.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 6 and 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Justice

¹ See Del. Supr. Ct. R. 6(a)(iii); 10 Del. C. § 148.

² Del. Supr. Ct. R. 6(a); *Carr v. State*, 554 A.2d 778, 779 (Del. 1989), *cert. denied*, 493 U.S. 829 (1989) (holding that delay in prison mail system does not justify enlargement of appeal period).

³ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).