

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES A. WILSON,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,
Appellee.

No. 224, 2000

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

Cr. A. No. IK99-11-0048

Cr. ID No. 9908018645

Submitted: May 19, 2000

Decided: May 30, 2000

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

ORDER

This 30th day of May 2000, it appears to the Court that:

(1) On May 12, 2000, the Court received the appellant's notice of appeal from a Superior Court sentence on March 22, 2000. Pursuant to Supreme Court Rule 6, a timely notice of appeal from a March 22, 2000 sentence should have been filed on or before April 21, 2000.

(2) On May 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 May 19, 2000. In his response, the appellant explains that he had

filed a motion for postconviction relief in the Superior Court on April 7, 2000, not knowing that he had to file an appeal first. The appellant provides no other explanation for waiting until May 12, 2000 to file his appeal.

(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/ Carolyn Berger
Justice