

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RICHARD P. DAVIS,	§
	§ No. 97, 2000
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§ in and for New Castle County,
	§ Cr.A. No. IN85-04-1654
Plaintiff Below-	§ and -1655
Appellee.	§

Submitted: March 31, 2000  
Decided: April 14, 2000

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

**ORDER**

This 14<sup>th</sup> day of April 2000, it appears to the Court that:

(1) On March 6, 2000, the appellant, Richard Davis, filed a copy of a notice of appeal from a Superior Court order dated September 20, 1999.

Pursuant to Supreme Court Rule 6, to have been timely filed, the notice of appeal should have been filed on or before October 20, 1999. On March 6, 2000, the Clerk of this Court issued a notice directing Davis to show cause why his appeal should not be dismissed as untimely.

(2) On March 20, 2000, Davis filed a response to the notice to show cause. Davis contends that he was never provided with a copy of the

Superior Court's order and that he only found out about the decision when he received a copy of his docket sheet on January 12, 2000. Davis contends that his untimely filing should be attributed to Superior Court personnel and thus excused.

(3) The State filed a reply to Davis' response. The State asserts that, even assuming the Superior Court did not notify Davis of the September 30, 1999 decision until January 12, 2000, it was incumbent upon Davis to file his notice of appeal within 30 days from January 12, 2000, i.e. by February 11, 2000. Davis, however, did not file his notice of appeal until March 6, 2000. Davis' delay in filing his appeal within 30 days from the day he received notice of the Superior Court's order is not attributable to State personnel. Therefore, the State argues, the 30 day jurisdictional requirement should not be excused in Davis' case.

(4) We agree. 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 filed by mail *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 Davis 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).

(5) Even assuming that court-related personnel erred by failing to send a copy of the September 1999 decision to Davis, by his own admission Davis knew of the Superior Court's decision by January 12, 2000. Accordingly, Davis should have filed his notice of appeal by at least February 11, 2000. There is nothing in the record which reflects that Davis' failure to file by February 11, 2000 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:

Randy J. Holland  
Justice