

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|------------------------------|
| JIMMY MURPHY, | § |
| | § |
| Defendant Below- | § No. 187, 2005 |
| Appellant, | § |
| | § |
| v. | § Court Below—Superior Court |
| | § of the State of Delaware, |
| STATE OF DELAWARE, | § in and for Kent County |
| | § Cr.A. No. IK95-09-0365 |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: June 6, 2005

Decided: June 30, 2005

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 30th day of June 2005, it appears to the Court that:

(1) On May 6, 2005, the Court received the appellant Jimmy Murphy's notice of appeal from a Superior Court order dated March 30, 2005. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the March 30 order should have been filed on or before May 2, 2005.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Murphy to show cause why the appeal should not be dismissed as untimely filed.¹ In his response, Murphy asserts that he mailed

¹DEL. SUPR. CT. R. 6(a) (ii).

his notice of appeal on April 25, 2005, but it was returned by the United States postal service on May 4, 2005. Murphy asserts that he should not bear the burden of the federal government's alleged mistake.

(3) The State has responded to Murphy's argument and asserts that the mistake was Murphy's alone because he failed to place sufficient postage on his package. In further reply, Murphy asserts that the mistake should be attributed to this Court's personnel who, according to Murphy, improperly refused his filing for insufficient postage. Murphy argues that this Court was obligated to accept his filing with insufficient postage and then later bill him for the difference.

(4) We find no merit to Murphy's argument. Time is a jurisdictional requirement.² 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.³ An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless the appellant can demonstrate that the failure to file a timely

²*Carr v. State*, Del. Supr., 554 A.2d 778, 779, cert. denied, 493 U.S. 829(1989).

³Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁵

(5) There is nothing in the record to reflect that Murphy's failure to file a timely notice of appeal in this case is attributable to court-related personnel. It is an appellant's obligation to provide sufficient postage on mail. It is not the Court's obligation to pay this debt on behalf of any appellant, indigent or otherwise. 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/ Myron T. Steele
Chief Justice

⁵*Bey v. State*, Del. Supr., 402 A.2d 362, 363 (1979).