

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYRONE GUINN,	§
	§ No. 295, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0411013992
	§
Plaintiff Below-	§
Appellee.	§

Submitted: July 1, 2008
Decided: July 18, 2008
Modified: August 1, 2008

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

ORDER

This 1st day of August 2008, upon consideration of the State’s request for remand, it appears to the Court that:

(1) In May 2005, the defendant-appellant, Tyrone Guinn, was convicted of Assault in a Detention Facility. While serving the probationary portion of his sentence, Guinn was found to have committed a violation of probation (“VOP”).

(2) Guinn filed an untimely notice of appeal from the finding of a VOP. The Clerk of the Court subsequently issued a notice to show cause why the appeal should not be dismissed as untimely. Guinn’s response to

the notice to show cause reflects that he unsuccessfully attempted to contact the Public Defender who represented him at the VOP hearing to request that a direct appeal be filed.

(3) The Court requested the State to reply to Guinn's response to the notice to show cause. In its reply, the State urges that, in these circumstances, the matter should be remanded to the Superior Court so that its May 13, 2008 VOP sentencing order might be vacated and Guinn re-sentenced, with the assistance of counsel.¹

(4) In the interest of justice, we conclude that this matter should be remanded to the Superior Court for re-sentencing of Guinn so that he may be given the opportunity to file a timely direct appeal.

NOW, THEREFORE, IT IS ORDERED that this matter is hereby REMANDED to the Superior Court, with instructions to vacate its May 13, 2008 VOP sentencing order and re-sentence Guinn, with the assistance of counsel. Jurisdiction is not retained.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ *Antoinne Harris v. State*, Del. Supr., No. 451, 2006, Holland, J. (July 5, 2007).