

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOE C. WATSON,	§
	§
Defendant Below-	§ No. 111, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0911004113
Plaintiff Below-	§
Appellee.	§

Submitted: July 10, 2012<sup>1</sup>  
Decided: July 24, 2012

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

**O R D E R**

This 24th day of July 2012, it appears to the Court that:

- (1) On March 2, 2012, this Court received appellant Joe Watson's notice of appeal from a Superior Court order, docketed January 31, 2012, denying his motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before March 1, 2012.
- (2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Watson to show cause why the appeal should not be dismissed as

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<sup>1</sup> The Court held this matter in abeyance pending the outcome of its decision in *Smith v. State*, 2012 WL 2821889, \_\_\_ A.3d \_\_\_ (Del. 2012), which was issued on July 10, 2012.

untimely filed.<sup>2</sup> Watson filed a response to the notice to show cause on April 9, 2012. He asserts that he gave his notice of appeal to prison authorities to mail on February 29, 2012. Watson asserts that, under the “prison mailbox rule,” his notice of appeal should be considered filed on the date he gave it to prison officials for mailing. We disagree.

(3) Time is a jurisdictional requirement.<sup>3</sup> 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.<sup>4</sup> This Court recently reaffirmed its holding that Delaware does not recognize the “prison mailbox rule” and that an appellant’s pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of 10 Del. C. § 147 and Delaware Supreme Court Rule 6.<sup>5</sup> Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.<sup>6</sup>

(4) There is nothing to reflect that Watson’s failure to timely file his notice of appeal in this case is attributable to court personnel.<sup>7</sup> Accordingly, this case does not fall within the exception to the general rule that mandates the timely

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<sup>2</sup>Del. Supr. Ct. R. 6(a)(iii) (2012).

<sup>3</sup>*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

<sup>4</sup>Del. Supr. Ct. R. 10(a) (2012).

<sup>5</sup>*Smith v. State*, 2012 WL 2821889, \_\_\_\_ A.3d \_\_\_\_ (Del. July 10, 2012); *Carr v. State*, 554 A.2d at 779.

<sup>6</sup>*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

<sup>7</sup>*Zuppo v. State*, 2011 WL 761523 (Del. Mar. 3, 2011) (holding that prison personnel are not court personnel).

filings 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/ Randy J. Holland  
Justice