

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NUGI NICHOLS,	§
	§
Defendant Below-	§ No. 495, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 9811011584
Plaintiff Below-	§
Appellee.	§

Submitted: October 6, 2008
Decided: December 16, 2008

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

ORDER

This 16th day of December 2008, it appears to the Court that:

(1) On September 25, 2008, the Court received appellant's notice of appeal from a Superior Court order dated August 20, 2008. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before September 19, 2008.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be dismissed as untimely filed.¹ Appellant filed a response to the notice to

¹Del. Supr. Ct. R. 6(a)(ii).

show cause on October 6, 2008. He contends that he placed his notice of appeal in the prison mail with sufficient postage and sufficient time that it should have been received by the due date. He contends that prison officials and court-related personnel must have “dropped the ball.”

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

(4) There is nothing in the record to support appellant’s assertion that his late filing 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.

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

³Del. Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

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

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