

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LEE ROYAL FISHER,	§
	§ No. 110, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ C.A. No. 08M-12-127
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 16, 2009

Decided: March 18, 2009

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

ORDER

This 18th day of March 2009, it appears to the Court that:

(1) On March 3, 2009, the Court received the appellant's notice of appeal from the Superior Court's order, dated and docketed on January 15, 2009, which dismissed his civil complaint on the ground of legal frivolousness. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the January 15, 2009, order should have been filed on or before February 16, 2009.

(2) On March 4, 2009, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his

response to the notice to show cause on March 16, 2009. The appellant, who is incarcerated at the James T. Vaughn Correctional Center, states that he was severely beaten on January 26, 2009, was placed in isolation, and was not released from isolation until February 22, 2009. He further states that he did not receive his legal papers until February 26, 2009, at which time he was able to file his appeal.

(3) Pursuant to Rule 6, a notice of appeal must be filed within thirty days after entry upon the docket of the judgment or order being appealed. Moreover, time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of the Court within the applicable time period in order to be effective.² An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.³ 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.⁴

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal is attributable to court-related personnel. Consequently, this case does not fall within the exception

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

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/ Randy J. Holland
Justice