

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LEROY HEFLEY,	§	
	§	No. 74, 2009
Appellant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Kent County
	§	
STATE OF DELAWARE,	§	
	§	
Appellee Below,	§	Def. ID No. 0709007937
Appellee.	§	

Submitted: March 4, 2009

Decided: May 13, 2009

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

**ORDER**

This 13<sup>th</sup> day of May 2009, it appears to the Court that:

(1) On February 18, 2009, the Court received Leroy Hefley's untimely notice of appeal from the Superior Court's opinion and order dated November 18, 2008 that affirmed a judgment of the Court of Common Pleas. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before December 18, 2008.<sup>1</sup>

(2) On February 19, 2009, the Clerk issued a notice directing that Hefley show cause why the appeal should not be dismissed as untimely

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<sup>1</sup> Del. Supr. Ct. R. 6(a).

filed.<sup>2</sup> Hefley filed a response to the notice to show cause on March 4, 2009. Hefley's response does not address the jurisdictional issue raised in the notice to show cause.

(3) Under Delaware law, a notice of appeal must be received by the Office of the Clerk within the applicable time period to be effective.<sup>3</sup> Unless an appellant can demonstrate that the failure to timely file a notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.<sup>4</sup>

(4) Hefley does not contend, and the record does not reflect, that his failure to timely file the notice of appeal is attributable to court-related personnel. This case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>2</sup> Del. Supr. Ct. R. 29(b).

<sup>3</sup> See *Carr v. State*, 554 A.2d 778, 779 (Del. 1989) (stating that “[t]ime is a jurisdictional requirement”); Del. Supr. Ct. R. 10(a).

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