

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANGEL FLORES,	§
	§ No. 276, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID Nos. 0607012755
	§ 0608007480
Plaintiff Below-	§
Appellee.	§

Submitted: May 26, 2009

Decided: June 2, 2009

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

ORDER

This 2nd day of June 2009, it appears to the Court that:

(1) On May 15, 2009, the Court received the appellant's notice of appeal from the Superior Court's order, dated and docketed on March 26, 2009, which denied his motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the March 26, 2009 order should have been filed on or before April 27, 2009.

(2) On May 15, 2009, the Clerk of the Court 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 May 26, 2009. The

appellant states that his untimely appeal was caused by the prison's slow in-house mail system and the prison law library staff's lack of urgency in assisting him with his notice of appeal.

(3) Pursuant to Supreme Court Rule 6(a) (iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the order or judgment 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 Supreme Court 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 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.

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).

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice