

IN THE SUPREME COURT OF THE STATE OF DELAWARE

VICTOR GRANTHAM,	§
	§ No. 350, 2009
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0808016406
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 29, 2009

Decided: July 14, 2009

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 14th day of July 2009, it appears to the Court that:

(1) On February 19, 2009, the defendant-appellant, Victor Grantham, pleaded guilty to Murder in the Second Degree. The record reflects that Grantham was sentenced in open court on May 1, 2009, and that the sentencing order was signed and docketed on May 11, 2009. Any appeal from Grantham’s conviction and sentence should have been filed on or before June 10, 2009.¹ However, Grantham did not file his *pro se* appeal in this Court until June 16, 2009.²

¹ Supr. Ct. R. 6(a) (ii).

² Grantham filed what he called a “motion to appeal his sentence.”

(2) On June 17, 2009, the Clerk of the Court issued a notice to Grantham to show cause why his appeal should not be dismissed as untimely filed. Grantham responded by filing a notice of appeal on June 29, 2009. In the notice of appeal, Grantham states that he told his attorney to file an appeal, but he did not do so.

(3) Under these circumstances, and in the interest of justice, we conclude that this matter should be remanded to the Superior Court for a determination of whether Grantham instructed his attorney to file an appeal.³ If the Superior Court determines that Grantham instructed his attorney to file an appeal, then its sentencing order should be vacated and Grantham re-sentenced, with the assistance of counsel, so that a timely appeal may be filed.⁴

NOW, THEREFORE, IT IS ORDERED that this matter is hereby REMANDED to the Superior Court for further proceedings in accordance herewith. Jurisdiction is not retained.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

³ *Roe v. Flores-Ortega*, 528 U.S. 470, 485 (2000).

⁴ *Id.* at 478.