

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARK A. WARREN,	§	
	§	No. 401, 2009
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0407015658
Appellee.	§	

Submitted: July 24, 2009  
Decided: July 28, 2009

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

**ORDER**

This 28<sup>th</sup> day of July 2009, it appears to the Court that:

(1) On July 15, 2009, the Court received Mark A. Warren’s notice of appeal from the Superior Court’s denial of postconviction relief dated July 21, 2008 and docketed on July 22, 2008.<sup>1</sup> Pursuant to Supreme Court Rule 6, Warren’s notice of appeal should have been filed on or before August 21, 2008.<sup>2</sup>

(2) On July 15, 2009, the Clerk issued a notice directing that Warren show cause why the appeal should not be dismissed as untimely

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<sup>1</sup> See *State v. Warren*, 2008 WL 2943377 (Del. Super. Ct.) (denying postconviction relief).

<sup>2</sup> Del. Supr. Ct. R. 6(a)(iii).

filed.<sup>3</sup> In response to the notice, Warren contends that he suffers from schizophrenia and depression, and he requests the Court’s assistance with his “legal issues.”

(3) “Time is a jurisdictional requirement.”<sup>4</sup> 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>5</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>6</sup>

(4) Warren does not contend, and the record does not reflect, that his failure to timely file the notice of appeal in this case is attributable to court-related personnel. Consequently, this Court does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.<sup>7</sup>

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>3</sup> Del. Supr. Ct. R. 29(b).

<sup>4</sup> *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

<sup>5</sup> Del. Supr. Ct. R. 10(a).

<sup>6</sup> *Bey v. State*, 402 A.2d 362,363 (Del. 1979).

<sup>7</sup> *See Smith v. State*, 1999 WL 643005 (Del. Supr.); *Ellison v. State*, 1989 WL 88588 (Del. Supr.) (dismissing untimely appeals).