

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONALD R. COCHRAN,	§
	§
Defendant Below-	§ No. 356, 2003
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. A. Nos. IK02-01-0397 thru
Plaintiff Below-	§ 0399
Appellee.	§

Submitted: October 2, 2003
Decided: November 12, 2003

Before **VEASEY**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 12th day of November 2003, it appears to the Court that:

(1) On July 18, 2003, the Court received the appellant's notice of appeal from the Superior Court's June 16, 2003 sentencing order. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before July 16, 2003.

(2) On July 18, 2003, 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 July 28, 2003. The Clerk then directed the State to file

an answer to which the appellant subsequently filed a reply. The appellant states that the Department of Correction failed to supply him with paper and pen quickly enough for him to file a timely notice of appeal. While the appellant states that his notice of appeal was delayed for 10 days because he did not have pen and paper, he does not explain why he was not able to file his notice of appeal within the 30-day appeal period.¹

(3) Time is a jurisdictional requirement.² A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal can not be considered.⁴

(4) There is nothing in the record that reflects 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

¹SUPR. CT. R. 6(a) (A notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed.)

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

³SUPR. CT. R. 10(a).

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 Rules 6(a) and 29(b), that the within appeal is DISMISSED.

BY THE COURT:

~~/s/ E. Norman Veasey~~ _____
Chief Justice