

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYRONE DRUMMOND,	§
	§
Defendant Below-	§ No. 76, 2010
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0606022334
Plaintiff Below-	§
Appellee.	§

Submitted: March 15, 2010  
Decided: April 13, 2010

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

**ORDER**

This 13<sup>th</sup> day of April 2010, it appears to the Court that:

(1) On February 16, 2010, the Court received appellant’s notice of appeal from a Superior Court order, dated January 11, 2010, which denied his third motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before February 10, 2010.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be

dismissed as untimely filed.<sup>1</sup> Appellant filed a response to the notice to show cause on March 3, 2010. He asserts that his appeal should not be deemed late because he placed it in the prison mail on February 1, 2010 but a snow emergency from February 8 to February 15 hampered delivery of the mail. The State has filed an answer in opposition to appellant's response.

(3) Time is a jurisdictional requirement.<sup>2</sup> 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.<sup>3</sup> An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.<sup>4</sup> 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.<sup>5</sup>

(4) Prison personnel are not court-related personnel. Consequently, even assuming prison personnel delayed mailing appellant's notice of appeal for a week, this case does not fall within the exception to

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

<sup>2</sup>*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

<sup>3</sup>Del. Supr. Ct. R. 10(a).

<sup>4</sup>*Carr v. State*, 554 A.2d at 779.

<sup>5</sup>*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

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 Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice