

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KUSHAL SHAH aka GERRON	§
LINDSEY,	§ No. 566, 2010
	§
Defendant Below-	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§ in and for New Castle County
	§ Cr. ID No. 0002019767
STATE OF DELAWARE,	§ C.A. No. N10M-07-081
	§
Plaintiff Below-	§
Appellee.	§

Submitted: September 13, 2010

Decided: September 16, 2010

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

ORDER

This 16th day of September 2010, it appears to the Court that:

(1) On September 2, 2010, the Court received the appellant’s notice of appeal from the Superior Court’s July 30, 2010 denial of his petition for a writ of habeas corpus.¹ Pursuant to Supreme Court Rule 6, a timely notice of appeal from the Superior Court’s order should have been filed on or before September 1, 2010.

(2) On September 3, 2010, the Clerk issued a notice pursuant to Rule 29(b) directing the appellant to show cause why his appeal should not

¹ The order was docketed on August 2, 2010.

be dismissed as untimely filed. The appellant filed his response to the notice to show cause on September 13, 2010. The appellant states that he filed his notice of appeal within 30 days of his receipt of the Superior Court's order.

(3) Pursuant to Rule 6(a)(iii), a notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed. 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 An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.⁴ 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.⁵

(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.

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

³ Supr. Ct. R. 10(a).

⁴ *Carr v. State*, 554 A.2d at 779.

⁵ *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/Henry duPont Ridgely
Justice