

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALFRED MAURICE LEWIS, JR.,	§
	§
Defendant Below-	§ No. 178, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0701004694
Plaintiff Below-	§
Appellee.	§

Submitted: July 10, 2012¹
Decided: July 16, 2012

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

ORDER

This 16th day of July 2012, it appears to the Court that:

(1) On April 4, 2012, this Court received appellant Alfred Lewis' notice of appeal from a Superior Court order, docketed February 22, 2012, denying his motion for modification of sentence. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before March 23, 2012.

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

¹ The Court held this matter in abeyance pending the outcome of its decision in *Smith v. State*, 2012 WL 2821889, ___ A.3d ___ (Del. 2012), which was issued on July 10, 2012.

filed.² Appellant filed a response to the notice to show cause on April 23, 2012. He asserts that his appeal should not be deemed late because he gave his notice of appeal to the prison mail room to be mailed on March 21, 2012, which was within the 30 day limitations period. Lewis seems to suggest that any delay in the Clerk's receipt of his materials should not be held against him because he tried to file in a timely manner. The State has filed an answer in opposition to appellant's response.

(3) Time is a jurisdictional requirement.³ 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.⁴ This Court recently reaffirmed its holding that an appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of 10 Del. C. § 147 and Delaware Supreme Court Rule 6.⁵ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁶

(4) Prison personnel are *not* court-related personnel.⁷ There is nothing to reflect that Lewis' failure to timely file his notice of appeal in this case is attributable in any way to court personnel. Accordingly, this case does not fall

²Del. Supr. Ct. R. 6(a)(iii) (2012).

³*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

⁴Del. Supr. Ct. R. 10(a) (2012).

⁵*Smith v. State*, 2012 WL 2821889, ___ A.3d ___ (Del. July 10, 2012); *Carr v. State*, 554 A.2d at 779.

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

⁷*Zuppo v. State*, 2011 WL 761523 (Del. Mar. 3, 2011).

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.

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

BY THE COURT:

/s/ Randy J. Holland
Justice