

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PETER T. GOVATOS,	§	
	§	No. 161, 2014
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court of
	§	the State of Delaware in and for
v.	§	Sussex County
	§	
STATE OF DELAWARE,	§	Cr. ID Nos. 0909017296
	§	1203004927
Plaintiff Below,	§	
Appellee.	§	

Submitted: April 8, 2014  
Decided: May 15, 2014

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

**ORDER**

This 15<sup>th</sup> day of May 2014, it appears to the Court that:

(1) On April 1, 2014, the Court received Peter T. Govatos' notice of appeal from a Superior Court sentence imposed on February 28, 2014 for a violation of probation. Under Supreme Court Rule 6(a)(ii), the notice of appeal should have been filed with the Clerk on or before March 31, 2014.<sup>1</sup>

(2) On April 1, 2014, the Clerk issued a notice pursuant to Supreme Court Rule 29(b), directing Govatos to show cause why the appeal should

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<sup>1</sup> See DEL. SUPR. CT. R. 6(a)(ii) (providing that a notice of appeal shall be filed in the office of the Clerk within thirty days after a sentence is imposed in a criminal conviction).

not be dismissed as untimely filed. In his response to the notice, Govatos asserts that the appeal was initially delayed because he had trouble obtaining appeal forms from the prison library and was further delayed by the prison mail system. Govatos also requests that the Court refund his filing fee if his appeal is dismissed.

(3) Under Delaware law, “[t]ime is a jurisdictional requirement.”<sup>2</sup> A notice of appeal must be received by the office of the Clerk within the thirty-day time period to be effective.<sup>3</sup> An untimely appeal cannot be considered unless an appellant can demonstrate that the failure to timely file the notice of appeal is attributable to court-related personnel.<sup>4</sup>

(4) Govatos does not contend, and the record does not reflect, that his failure to file a timely notice of appeal is attributable to court personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

(5) Finally, having considered Govatos’ request for a refund of the filing fee, the Court concludes that the request must be denied. Under

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

<sup>3</sup> DEL. SUPR. CT. R. 10(a).

<sup>4</sup> *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

Supreme Court Rule 20(a), the fee for filing a notice of appeal is nonrefundable.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED. The request for a refund of the filing fee is DENIED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice