

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FLOYD A. SMITH,	§	
	§	No. 200, 2017
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of the
	§	State of Delaware
v.	§	
	§	Cr. ID No. 1209014436 (K)
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: May 22, 2017

Decided: May 23, 2017

Before **STRINE**, Chief Justice; **VALIHURA** and **SEITZ**, Justices.

O R D E R

This 23rd day of May 2017, it appears to the Court that:

(1) On May 15, 2017, the appellant, Floyd A. Smith, filed a notice of appeal from a sentence imposed on December 30, 2016 on a violation of probation (“VOP”). This is Smith’s second appeal from the December 30 sentence. In Smith’s prior appeal from the December 30 sentence, this Court affirmed the sentence.¹

(2) On May 15, 2017, the Clerk issued a notice directing Smith to show cause why his appeal filed on May 15, 2017 should not be dismissed as untimely

¹ See *Smith v. State*, 2017 WL 1399749 (Del. April 18, 2017) (affirming VOP sentence).

filed.² The notice also reminded Smith of his previous appeal from the December 30 sentence.

(3) Smith filed a response to the notice to show cause on May 22, 2017. Smith's response does not address the untimeliness of his current appeal or acknowledge that he appealed the December 30 sentence earlier this year.

(4) Smith's current appeal from the December 30 sentence is untimely and redundant and must be dismissed. Smith appealed the December 30 sentence earlier this year.³ He may not file another appeal from the same sentence.⁴ Smith's current appeal also is untimely because it was not filed within thirty days of the sentencing.⁵

NOW, THEREFORE, IT IS ORDERED under Supreme Court Rule 29(b) and (c), that the appeal is DISMISSED.

BY THE COURT:

/s/ Karen L. Valihura
Justice

² Under Del. Supr. Ct. R. 6(a)(iii), a notice of appeal must be filed within thirty days after a sentence is imposed.

³ *Supra* note 1.

⁴ *Accord Evans v. State*, 2016 WL 3751843 (Del. July 5, 2016) (prohibiting second appeal from same order); *Paskins v. State*, 1998 WL 123194 (Del. March 5, 1998) (dismissing appeal as redundant).

⁵ *Supra* note 2.