

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID PAITSEL,	§
	§ No. 131, 2019
Defendant Below–	§
Appellant,	§
	§
v.	§ Court Below–Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID 1401007717 (K)
Plaintiff Below–	§
Appellee.	§

Submitted: April 3, 2019
Decided: April 4, 2019

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

ORDER

Upon consideration of the Rule to Show Cause and the appellant’s response, it appears to the Court that:

(1) On March 25, 2019, the Court received David Paitsel’s notice of appeal from a May 21, 2018 Superior Court sentence order for a violation of probation. Under Supreme Court Rule 6, a timely notice of appeal from a sentence imposed on May 21, 2018, should have been filed on or before June 20, 2018.

(2) The Clerk issued a notice directing Paitsel to show cause why his appeal should not be dismissed as untimely. Paitsel filed a response to the notice to show cause on April 3, 2019. In his response, Paitsel contends that he would have pursued

his appeal in a timely manner but he was under the impression his attorney was going to file a motion to modify his sentence with the Superior Court.

(3) Time is a jurisdictional requirement.¹ 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.² An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.³ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, the appeal cannot be considered.⁴

(5) Here, there is nothing in the record to reflect that Paitsel's failure to file a timely notice of appeal 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 appeal must be dismissed.

¹ *Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

² Del. Supr. Ct. R. 10(a).

³ *Smith v. State*, 47 A.3d 481, 486-87 (Del. 2012).

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

NOW, THEREFORE, IT IS HEREBY ORDERED, under Supreme Court Rule 26(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Gary F. Traynor
Justice