

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HASINI PERKINS,	§
	§
Defendant Below,	§ No. 351, 2020
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 0811004552 (N)
	§
Plaintiff Below,	§
Appellee.	§

Submitted: November 12, 2020
Decided: December 2, 2020

Before **VAUGHN, TRAYNOR, and MONTGOMERY-REEVES**, Justices.

ORDER

After consideration of the notice to show cause and the parties’ responses, it appears to the Court that:

(1) On October 22, 2020, the appellant, Hasini Perkins, filed a notice of appeal from a Superior Court order, dated August 20, 2020 and docketed on August 31, 2020, denying his motion for reduction/modification of sentence. A timely notice of appeal should have been filed by September 30, 2020.¹ The Senior Court

¹ Supr. Ct. R. 6(a)(iv) (providing notice of appeal must be filed “[w]ithin 30 days after entry upon the docket of a judgment or order in any proceeding for post-conviction relief”).

Clerk issued a notice directing Perkins to show cause why this appeal should not be dismissed as untimely filed under Supreme Court Rule 6.

(2) In his response to the notice to show cause, Perkins states that he did not receive a copy of the order and did not learn of the order until he received a copy of the Superior Court docket on September 25, 2020. According to the State, the Department of Correction has no record of incoming mail to Perkins in August or September. In light of the evidence supporting Perkins's claim that he did not receive the August 2020 order in a timely manner, the State suggests that this Court remand the matter with directions to the Superior Court to reissue the August 2020 order so that Perkins has the opportunity to file a timely notice of appeal.

(3) We agree that the proper course of action is to remand this matter to the Superior Court. Upon remand, the Superior Court shall reissue the August 2020 order.

NOW, THEREFORE, IT IS ORDERED that the within matter is REMANDED to the Superior Court for further action in accordance with this order. Jurisdiction is not retained.

BY THE COURT:

/s/ Gary F. Traynor
Justice