

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY GORDON,	§
	§
Defendant Below,	§ No. 145, 2023
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1109011777 (N)
	§
Appellee.	§

Submitted: May 8, 2023
Decided: May 16, 2023

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

ORDER

After consideration of the notice to show cause and the response, it appears to the Court that:

(1) On May 1, 2023, the appellant, Anthony Gordon, filed a notice of appeal from the Superior Court’s order, dated and docketed on March 29, 2023, denying his motion to dismiss two counts of the indictment against him. A timely notice of appeal should have been filed on or before April 28, 2023.¹

(2) The Senior Court Clerk issued a notice directing Gordon to show cause why this appeal should not be dismissed as untimely filed. In his response to the

¹ Del. Supr. Ct. R. 6(a)(iv) (providing that the notice of appeal must be filed within thirty days after entry upon the docket of the judgment or order in a post-conviction proceeding).

notice to show cause, Gordon states that he thought he had thirty days from his receipt of the Superior Court order on March 31, 2023 to file his appeal and that the prison mail system is the reason his appeal is late.

(3) Time is a jurisdictional requirement.² 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.³ An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.⁵

(4) Gordon had thirty days from the docketing of the Superior Court order on March 29, 2023, not his receipt of the order on March 31, 2023, to file his notice of appeal.⁶ Gordon has not shown that his failure to file a timely notice of appeal by April 28, 2023 is attributable to court-related personnel.⁷ Consequently, this case

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

³ Supr. Ct. R. 10(a).

⁴ *Smith v. State*, 47 A.3d 481, 486-87 (Del. 2012).

⁵ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁶ *See supra* n.1.

⁷ *See, e.g., Yeager v. Fisher*, 2021 WL 3578626, at *1 (Del. Aug. 12, 2021) (“Department of Correction personnel are not court-related personnel.”); *Schafferman v. State*, 2016 WL 5929953, at *1 (Del. Oct. 11, 2016) (dismissing untimely appeal in which the appellant argued that prison personnel prevented him from filing a timely notice of appeal).

does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal, and this appeal must be dismissed.⁸

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

BY THE COURT:

/s/ Karen L. Valihura
Justice

⁸ Even if the appeal was timely, this Court has previously rejected Gordon's challenges to his indictment. *Gordon v. State*, 2022 WL 1486527, at *2 (Del. May 10, 2022).