

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NATHANIEL SLADE,	§
	§
Defendant Below,	§ No. 102, 2001
Appellant,	§
v.	§ Court Below – Superior Court of the
	§ State of Delaware, in and for New
	§ Castle County in Cr.A.Nos. IN96-
STATE OF DELAWARE,	§ 06-1690-R-2, 1691-R2.
	§
Plaintiff Below,	§
Appellee.	§ Def. ID No. 9606015413

Submitted: March 19, 2001

Decided: April 25, 2001

Before **VEASEY**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 25th day of April 2001, it appears to the Court that:

(1) On March 2, 2001, the Court received the appellant's untimely notice of appeal from the Superior Court's order, dated and docketed on January 30, 2001, that denied the appellant's second motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before March 1, 2001.¹

(2) On March 2, 2001, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) that directed the appellant to show cause why

the appeal should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on March 19, 2001.

(3) In his response to the notice to show cause, the appellant asserts that his notice of appeal was timely filed in accordance with *Houston v. Lack*.² The appellant contends that he should not be held responsible for delays in the prison mail system.

(4) The appellant's reliance on *Houston* is misplaced. In that case, the United States Supreme Court found that a federal statute and two federal court rules were ambiguous concerning when "filing" was deemed to have occurred.³ The rules concerning "filing" in this State, however, are not ambiguous, as this Court has repeatedly held.⁴

(5) To be effective, a notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period.⁵ An appellant's *pro se* or incarcerated status does not excuse a failure to comply strictly with the jurisdictional requirements of the Supreme Court.⁶ Any

¹ Supr. Ct. R. 6(a)(iii).

² *Houston v. Lack*, 487 U.S. 266 (1988).

³ *Id.* at 273.

⁴ *Carr v. State*, Del. Supr., 554 A.2d 778, 779, cert denied, 495 U.S. 829 (1989).

⁵ *Id.*; Supr. Ct. R. 6, 10(a).

⁶ *Carr v. State*, 554 A.2d at 779.

delay in the prison mail system cannot justify an enlargement of the 30-day appeal period.⁷

(6) Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁸ There is nothing in the record in this Court that reflects that the appellant'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 within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

⁷ *Id.*

⁸ *Bey v. State*, Del. Supr., 402 A.2d 362, 363 (1979).