

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEVEN A. MCLEOD,	§
	§ No. 318, 2013
Plaintiff Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
HUGHEY F. MCLEOD,	§ C.A. No. N11C-03-111
	§
Defendant Below-	§
Appellee.	§

Submitted: July 1, 2013  
Decided: July 15, 2013

Before **HOLLAND**, **BERGER** and **JACOBS**, Justices

**ORDER**

This 15<sup>th</sup> day of July 2013, it appears to the Court that:

(1) On June 3, 2013, the Court received what subsequently was deemed to be the appellant's notice of appeal from the Superior Court's order dated and docketed on April 29, 2013, which granted in part and denied in part his motion for rehearing and/or clarification and granted in part and denied in part the defendant/appellee's motion to dismiss.<sup>1</sup> Pursuant to Supreme Court Rule 6, a timely notice of appeal from the

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<sup>1</sup> The Superior Court's order ultimately granted the appellant an additional 120 days to effect service upon the defendant/appellee.

Superior Court's April 29, 2013 order should have been filed on or before May 29, 2013.

(2) On June 18, 2013, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed a response to the notice to show cause on July 1, 2013. In the response, the appellant states that his appeal should be deemed to be timely because he filed his notice of appeal in a timely manner in the Superior Court, he is a prison inmate in the State of Florida without access to the Delaware rules of procedure and he placed his notice of appeal into the hands of prison officials for mailing in a timely manner.

(3) Pursuant to Rule 6(a) (i), a notice of appeal in a civil case must be filed in the Office of the Clerk of the Court within 30 days after entry upon the docket of the judgment, order or decree from which the appeal is taken. Time is a jurisdictional requirement.<sup>2</sup> A notice of appeal must be received by the Office of the Clerk within the applicable time period in order to be effective.<sup>3</sup> Moreover, an appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.<sup>4</sup>

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

<sup>3</sup> Supr. Ct. R. 10(a).

<sup>4</sup> *Carr v. State*, 554 A.2d at 779.

Unless the appellant can demonstrate that his failure to file a timely notice of appeal is attributable to court-related personnel, his appeal may not be considered.<sup>5</sup>

(4) There is nothing in the record reflecting that the appellant's failure to file a timely notice of appeal in this case 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 this appeal must be dismissed.<sup>6</sup>

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

BY THE COURT:

/s/ Carolyn Berger  
Justice

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

<sup>6</sup> Even if a timely notice of appeal had been filed, the record reflects that this appeal would have been dismissed in any case due to the appellant's failure to comply with the requirements of Rule 42 when filing an appeal from an apparent interlocutory order.