

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONALD N. JOHNSON,	§
	§ No. 339, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 9812007273A
	§
Plaintiff Below-	§
Appellee.	§

Submitted: July 10, 2012

Decided: July 18, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 18th day of July 2012, it appears to the Court that:

(1) On June 21, 2012, the Court received the appellant’s notice of appeal from the Superior Court’s order, dated and docketed on May 10, 2012, which denied his motion for sentence reduction. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the Superior Court’s May 10, 2012 order should have been filed on or before June 11, 2012.

(2) On June 21, 2012, 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. The appellant filed a response to the notice to show cause on July 3, 2012. The appellant states that he did

not receive notification of the Superior Court's order until May 26, 2012, when he received a copy of the docket sheet. The appellant provides no other explanation why he did not file the notice of appeal until June 21, 2012.¹

(3) Pursuant to Rule 6(a) (iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the judgment or order being appealed. Time is a jurisdictional requirement.² A notice of appeal must be received by the Office of the Clerk of the 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 Rule 6.⁴ 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.⁵

(4) The appellant in this case concedes that he was aware of the Superior Court's order by May 26, 2012. He offers no explanation for why he was unable to file a timely notice of appeal by the due date of June 11, 2012. The appellant's statement that his notice of appeal was timely because

¹ The Superior Court docket reflects that a certified copy of the docket sheet as well as a certified copy of the Superior Court's order was sent to the appellant on May 22, 2012.

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

³ Supr. Ct. R. 10(a).

⁴ *Carr v. State*, 554 A.2d at 779.

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

it was filed within 30 days of May 26, 2012 is incorrect. The record does not support a finding that the appellant's failure to file a timely notice of appeal is attributable to court-related personnel. Rather, it appears that the appellant relied on the erroneous assumption that he had 30 days from the date of May 26, 2012 in which to file his appeal. Thus, the Court concludes that this appeal must be dismissed.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice