

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HAROLD L. HONEY,	§	
	§	No. 84, 2001
	§	
Defendant Below,	§	Court Below—Superior Court
Appellant,	§	of the State of Delaware, in
	§	and for Kent County
v.	§	Cr.A.No. IK99-11-0127.
	§	
STATE OF DELAWARE,	§	
	§	Def. ID No. 9904005681
Plaintiff Below,	§	
Appellee.	§	

Submitted: March 5, 2001
Decided: March 14, 2001

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

ORDER

This 14th day of March 2001, upon consideration of the notice of appeal filed by Harold L. Honey (“Honey”), an inmate at the Sussex Correctional Institution; the Clerk’s notice to show cause; and Honey’s response to the notice, it appears to the Court that:

(1) On February 22, 2001, the Court received Honey’s notice of appeal from the Superior Court’s order of January 12, 2001,¹ that denied Honey’s motion for correction of sentence. Because Honey’s notice of appeal appeared to be untimely filed, the Clerk issued a notice pursuant to

¹ Honey’s notice of appeal incorrectly stated that the Superior Court’s order was dated January 18, 2001.

Supreme Court Rule 29(b) that directed Honey to show cause why the appeal should not be dismissed.

(2) Honey responded to the notice to show cause. In his response, Honey requests that the Court allow him to proceed with his untimely appeal “due to extenuating circumstances.” Specifically, Honey states that his time to “research case law” and to meet court deadlines is “extremely limited” due to his participation in the Key South Program at Sussex Correctional Institution.

(3) Honey’s difficulties in preparing and filing his notice of appeal are unavailing. Under Delaware law and procedure, a notice of appeal *must be received* by the office of the Clerk of this Court within the applicable time period.² Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, the appellant’s untimely appeal cannot be considered.³

(4) In this case, Honey’s notice of appeal from the Superior Court’s January 12 order was due to be filed “within 30 days after its entry upon the docket[,]”⁴ *i.e.*, by February 12, 2001. The record does not reflect that Honey’s failure to file his notice of appeal by February 12, 2001, is

² Supr. Ct. R. 6(a); *Carr v. State*, 554 A.2d 778, 779, *cert. denied*, 493 U.S. 829 (1989).

³ *Bey v. State*, Del. Supr., 402 A.2d 362, 363 (1979).

⁴ Supr. Ct. R. 6(a)(iii).

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. The Court concludes that the appeal must be dismissed.

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

BY THE COURT:

/s/ Randy J. Holland
Justice