

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH WALKER,	§
	§ No. 398, 2013
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 9810002187
	§
Plaintiff Below,	§
Appellee.	§

Submitted: August 14, 2013  
Decided: August 23, 2013

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 23<sup>rd</sup> day of August 2013, it appears to the Court that:

(1) On July 26, 2013, the Court received the appellant’s notice of appeal from the Superior Court order, dated and docketed on May 24, 2013, which denied his second motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the Superior Court’s order should have been filed on or before June 24, 2013.

(2) On July 29, 2013, the Clerk issued a notice pursuant to Rule 29(b) directing 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 August 14, 2013. The appellant states that he has no legal training and that his

untimely notice of appeal should be considered by this Court, because he requested an extension of time in which to file his opening brief on June 21, 2013, within the applicable time period.<sup>1</sup>

(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.<sup>2</sup> 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.<sup>3</sup> An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.<sup>4</sup> 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 before us reflecting 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

---

<sup>1</sup> The record before us reflects that, while the motion for an extension of time was dated June 21, 2013, it was not received by the Court until well after that date. Moreover, the motion was not docketed, but was placed in the Clerk's miscellaneous correspondence file, because no appeal had yet been filed. The Clerk explained to the appellant by letter dated July 8, 2013 that the Court had no jurisdiction to consider a motion for an extension of time in the absence of an appeal first being filed.

<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.

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

mandating the timely filing of a notice of appeal. Thus, 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/ Jack B. Jacobs  
Justice