

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM COLON,	§
	§ No. 146, 2004
Defendant Below,	§
Appellant,	§
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID No. 0101017505
Plaintiff Below,	§
Appellee.	§

Submitted: April 20, 2004
Decided: April 28, 2004

Before **HOLLAND, BERGER,** and **STEELE,** Justices.

ORDER

This 28th day of April 2004, it appears to the Court that:

(1) The appellant, William Colon, filed a notice of appeal on April 13, 2004 from an order of the Superior Court dated March 9, 2004. The Superior Court's order denied Colon's motion of modification of sentence. On April 14, 2004, the Clerk of this Court issued a notice to Colon to show cause why the appeal should not be dismissed for his failure to file his notice within the thirty-day appeal period.¹

¹ See Del. Supr. Ct. R. 6(a)(i); 10 Del. C. § 148 (1999).

(2) Colon filed a response to the notice to show cause. In his response, Colon claims he mailed his notice of appeal on April 8, which was the last day of the thirty-day appeal period. He attributes the untimeliness of his filing to the prison mail system and to a holiday weekend.

(3) We find Colon's contentions unavailing. This Court lacks jurisdiction to consider an appeal when the notice of appeal is not received by the Clerk of this Court in a timely manner *unless* the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel.² Colon does not contend that the failure to timely file his appeal is attributable in some way to court-related personnel. Accordingly, this Court has no jurisdiction to hear this untimely appeal.³

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 6 and 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice

² *Carr v. State*, 554 A.2d 778, 779 (Del. 1989) (timely notice required to be filed regardless of mailing date)

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