

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT L. CARROLL,	§	
	§	
Defendant Below-	§	No. 261, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	Cr. ID No. 91002197DI
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: July 19, 2004
Decided: August 12, 2004

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

ORDER

This 12th day of August 2004, it appears to the Court that:

(1) On June 18, 2004, the Court received the appellant's notice of appeal from the Superior Court's May 18, 2004 order denying his motion for postconviction relief.¹ Pursuant to Supreme Court Rule 6(a) (iii), a timely notice of appeal should have been filed on or before June 17, 2004---that is, within 30 days after entry upon the docket of the judgment or order being appealed.

(2) On June 18, 2004, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not

¹ The order was dated May 13, 2004, but was not docketed by the Prothonotary until May 18, 2004.

be dismissed as untimely filed. The appellant filed his response to the notice to show cause on June 28, 2004. The appellant states that: he did not receive the Superior Court's order until May 20, 2004, seven days after the date of the order; he was disadvantaged by the seven-day time lag; and the time lag is the fault of court-related personnel.

(3) Time is a jurisdictional requirement.² A notice of appeal must be received by the Office of the Clerk of this 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 Supreme Court Rule 6.⁴ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal may not be considered.⁵

(4) While the order from which the appellant takes his appeal is dated May 13, 2004, it was not docketed until May 18, 2004. The 30-day time period within which his notice of appeal had to be filed was calculated from the date of docketing.⁶ The appellant, thus, received the Superior Court's order two days after it was docketed by the Prothonotary and his argument that a seven-day time lag

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).

⁶ Supr. Ct. R. 6(a) (iii).

caused by court-related personnel resulted in his untimely notice of appeal is without a factual basis.

(5) There is nothing in this record 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 that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

oc: Clerk of the Court
c: Robert L. Carroll
Loren C. Meyers
Court's Distribution List