

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALONZO CANNON,	§
	§
Defendant Below-	§ No. 308, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0010006075
Plaintiff Below-	§
Appellee.	§

Submitted: August 6, 2004
Decided: August 27, 2004

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

ORDER

This 27th day of August 2004, it appears to the Court that:

(1) On July 21, 2004, the Court received the appellant's notice of appeal from a Superior Court order, which was dated and docketed June 16, 2004, denying his motion for postconviction relief. According to Supreme Court Rule 6, a timely notice of appeal from the June 16, 2004 order should have been filed on or before July 16, 2004. In apparent anticipation of the dismissal of his untimely appeal, the appellant filed a letter along with his notice of appeal explaining that his appeal was untimely because he was out of stamps.

(2) 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 filed.¹ The appellant did not file a separate response to the notice to show cause. The State, however, has filed a response to the appellant's anticipatory letter of explanation as well as the notice to show cause. The State contends that appellant's explanation, i.e. insufficient postage, is insufficient to overcome the jurisdictional defect created by his untimely filing. We agree.

(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 an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.⁵

¹Del. Supr. Ct. R. 6(a)(ii).

²*Carr v. State*, 554 A.2d 778, 779 (Del. 1989), *cert. denied*, 493 U.S. 829 (1989).

³Del. 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).

(4) There is nothing in this record to reflect that appellant's failure to file a timely notice of appeal in this case 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/ Randy J. Holland
Justice