

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS GRAHAM,	§
	§
Defendant Below-	§ No. 382, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 02080112184
Plaintiff Below-	§
Appellee.	§

Submitted: September 13, 2004

Decided: September 23, 2004

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

ORDER

This 23rd day of September 2004, it appears to the Court that:

(1) On September 3, 2004, the Court received Thomas Graham's notice of appeal from a Superior Court order, dated July 29, 2004, denying his motion for postconviction relief. A timely notice of appeal should have been filed on or before August 30, 2004.¹ Accordingly, the Clerk of the Court issued a notice to Graham pursuant to Supreme Court Rule 29(b) to show cause why his untimely appeal should not be dismissed.

¹Del. Supr. Ct. R. 6(a)(iii).

(2) Graham filed a response to the notice to show cause. He contends that he did not receive the Superior Court’s order until August 3, 2004. He argues that the 30-day limitations period should not have started to run until he actually received a copy of the order. We disagree. Supreme Court Rule 6(a)(iii) expressly provides that a notice of appeal in a postconviction proceeding must be filed with 30 days “after entry upon the docket” of the judgment.²

(3) Time is a jurisdictional requirement.³ 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.⁴ An appellant’s pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁵ 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.⁶

²*See also Salomon, Inc. v. Steuart Petro. Co.*, 567 A.2d 402 (Del. 1989); *Giordano v. Marta*, 723 A.2d 823 (Del. 1998).

³*Carr v. State*, 554 A.2d 778, 779 (Del. 1989), *cert. denied*, 493 U.S. 829 (1989).

⁴Del. Supr. Ct. R. 10(a).

⁵*Carr v. State*, 554 A.2d at 779.

⁶*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

(4) There is nothing in this record to reflect that Graham'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/ Carolyn Berger
Justice