

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN L. DICKENS,	§
	§
Plaintiff Below-	§ No. 377, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STAFF LT. COSTELLO, <i>et al.</i> ,	§ in and for New Castle County
	§ C.A. No. 97C-06-063
Defendants Below-	§
Appellees.	§

Submitted: September 16, 2004  
Decided: September 29, 2004

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

**ORDER**

This 29<sup>th</sup> day of September 2004, it appears to the Court that:

(1) On August 30, 2004, the Court received appellant Kevin Dickens' notice of appeal from a Superior Court order dated July 20, 2004, which denied Dickens' motion for a new trial. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the July 20, 2004 order should have been filed on or before August 19, 2004.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Dickens to show cause why the appeal should not be

dismissed as untimely.<sup>1</sup> Dickens filed a response to the notice to show cause on September 16, 2004. Dickens contends that Department of Correction policies regarding prisoner mail caused his notice of appeal to be untimely and that his untimeliness is not his fault and should be excused.

(3) We disagree. Time is a jurisdictional requirement.<sup>2</sup> 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.<sup>3</sup> An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.<sup>4</sup> Unless Dickens can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.<sup>5</sup> Prison officials are not court-related personnel.

(4) There is nothing in the 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

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<sup>1</sup>Supr. Ct. R. 6(a)(i).

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

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