

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CRAIG NELSON,	§
	§
Defendant Below-	§ No. 366, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.ID No. 9811012658
Plaintiff Below-	§
Appellee.	§

Submitted: September 23, 2004

Decided: October 5, 2004

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

ORDER

This 5th day of October 2004, it appears to the Court that:

(1) On August 24, 2004, the Court received appellant Craig Nelson's notice of appeal from a Superior Court order dated July 22, 2004, which denied Nelson's motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the July 22, 2004 order should have been filed on or before August 23, 2004.

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

dismissed as untimely.¹ Nelson filed a response to the notice to show cause on September 7, 2004. Nelson 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) On September 23, 2004, the State filed a reply to Nelson's answer to the rule to show cause. The State argues that this Court lacks jurisdiction over this appeal and that it should be dismissed.

(4) 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 Nelson can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁵ Prison officials are not court-related personnel.

¹Supr. Ct. R. 6(a)(iii).

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

³Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

⁵*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

(5) 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 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