

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS J. BURNS,	§	
	§	
Respondent Below-	§	No. 361, 2004
Appellant,	§	
	§	
v.	§	Court Below---Family Court
	§	of the State of Delaware,
	§	in and for New Castle County
MARJORIE S. LAMB,	§	File No. CN00-06046
	§	
Petitioner Below-	§	
Appellee.	§	

Submitted: October 7, 2004  
Decided: October 19, 2004

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

**ORDER**

This 19<sup>th</sup> day of October 2004, it appears to the Court that:

(1) On August 23, 2004, the Court received appellant Thomas J. Burns' notice of appeal from a Family Court order dated June 30, 2004, docketed July 1, 2004 and mailed July 2, 2004. Pursuant to Supreme Court Rule 6, a timely notice of appeal from that order should have been filed on or before August 2, 2004. The appeal is also purportedly from a report of the Family Court following remand dated August 11, 2004.

(2) The Clerk of this Court issued a notice pursuant to Supreme Court Rule 29(b) directing Burns to show cause why the appeal from the Family Court's

June 30, 2004 order should not be dismissed as untimely.<sup>1</sup> The notice also directed Burns to show cause why the purported appeal from the Family Court's report following remand should not be dismissed as duplicative of another appeal filed by Burns in this Court.<sup>2</sup>

(3) Burns filed a response to the notice to show cause on October 7, 2004. He makes a number of allegations, all of which were previously asserted in *Burns v. Lamb*, Del. Supr., No. 573, 2003, now pending in this Court. His submission is not responsive to the notice to show cause issued by the Clerk.

(4) Time is a jurisdictional requirement.<sup>3</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>4</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>5</sup> 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.<sup>6</sup>

(5) There is nothing in the record reflecting that Burns' failure to file a timely notice of appeal from the Family Court's July 1, 2004 order is attributable

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

<sup>2</sup> The remand was ordered in *Burns v. Lamb*, Del. Supr., No. 573, 2003.

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

<sup>4</sup> Supr. Ct. R. 10(a).

<sup>5</sup> *Carr v. State*, 554 A.2d at 779.

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

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. Moreover, Burns does not explain why he filed a separate appeal purportedly from the Family Court's report following remand, which is duplicative of a previous appeal filed by Burns in this Court. For these reasons, 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/ Jack B. Jacobs  
Justice