

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MELLISA RUCINSKI,	§
	§
Defendant Below-	§ No. 473, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0207003805
Plaintiff Below-	§
Appellee.	§

Submitted: November 8, 2004
Decided: December 14, 2004

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

ORDER

This 14th day of December 2004, it appears to the Court that:

(1) On October 22, 2004, the Court received the appellant's notice of appeal from a Superior Court order dated September 13, 2004 denying her motion for correction of sentence. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the September 13, 2004 order should have been filed on or before October 13, 2004.

(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 filed a response to the notice to show cause on November 8, 2004. She contends that her appeal is untimely because she was unable to receive timely assistance from the law library clerk in the correctional institution where she is housed. She asks the Court to waive the 30-day filing requirement.

(3) Time, however, 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 the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, her appeal cannot be considered.⁵

(4) There is nothing in the record that reflects 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

¹Supr. Ct. R. 6(a) (ii).

²*Carr v. State*, Del. Supr., 554 A.2d 778, 779, 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*, Del. Supr., 402 A.2d 362, 363 (1979).

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/Henry duPont Ridgely
Justice

oc: Clerk (orig. +3)
xc: Hon. Richard F. Stokes
Ms. Mellisa Rucinski, WCI
Kim E. Ayvazian, Esq.
Justices (8)
D. Collins
P. Naylor
Law Clerk
File