

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GREGORY R. PARKER,	§
	§ No. 575, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
WILMINGTON SAVINGS FUND	§ C.A. No. S11L-10-108
SOCIETY, FSB, Assignee of Trident	§
Mortgage Company, LP,	§
	§
Plaintiff Below-	§
Appellee.	§

Submitted: December 3, 2012  
Decided: December 11, 2012

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

**ORDER**

This 11<sup>th</sup> day of December 2012, it appears to the Court that:

(1) On October 19, 2012, the Court received the appellant's notice of appeal from the Superior Court's order, dated September 17, 2012 and docketed on September 18, 2012, which denied his motion to set aside sheriff's sale and for relief from judgment. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the September 18, 2012 order should have been filed on or before October 18, 2012.

(2) On October 23, 2012, the Clerk issued a notice pursuant to Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as

untimely filed. The appellant filed his response to the notice to show cause on November 19, 2012.<sup>1</sup> In the response, the appellant states that he attempted to file his notice of appeal electronically on October 18, 2012, but that the electronic transmission was not completed because he did not pay the required filing fee. Therefore, he argues, the Court should accept his notice of appeal as timely filed.<sup>2</sup>

(3) Pursuant to Rule 6, a notice of appeal must be filed within thirty days after entry upon the docket of the judgment or order being appealed. Time is a jurisdictional requirement.<sup>3</sup> A notice of appeal must be received by the Office of the Clerk of the 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 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>

(4) There is nothing in the record before us reflecting that the 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

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<sup>1</sup> At the Court's request, the appellee filed a reply on December 3, 2012.

<sup>2</sup> The appellant argues that the notice of appeal should be accepted as a "*nunc pro tunc*" filing pursuant to Supreme Court Rule 10.2(10).

<sup>3</sup> *Carr v. State*, 554 A.2d 778, 779 (Del. 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).

rule that mandates the timely filing of a notice of appeal.<sup>7</sup> Thus, the Court concludes that this appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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<sup>7</sup> The appellant's failure to pay the filing fee at the time of filing was the sole reason the attempted electronic transmission was not completed. Therefore, Supreme Court Rule 10.2(10) does not apply.