

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WID-DONALD PAUL,	§	
	§	No. 593, 2011
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court of
	§	the State of Delaware in and for
v.	§	Sussex County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0905014074
Appellee.	§	

Submitted: November 16, 2011

Decided: November 22, 2011

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

ORDER

This 22nd day of November 2011, upon consideration of the Clerk’s notice to show cause, the appellant’s response to the notice and the appellee’s motion to affirm, it appears to the Court that:

(1) On May 5, 2010, the appellant, Wid-Donald Paul, pled guilty to Possession with Intent to Deliver Cocaine. Paul was immediately sentenced to eight years at Level V suspended after eighteen months for eighteen months at Level III supervision.

(2) On November 3, 2011, Paul filed a notice of appeal from the Superior Court’s September 29, 2011 order denying his motion for postconviction relief. On November 4, 2011, the Clerk issued a notice

directing that Paul show cause why the appeal should not be dismissed as untimely filed.

(3) In his response to the notice to show cause, Paul contends that his notice of appeal was timely filed within thirty days of his receipt of the September 29 order on October 4, 2011. Under Delaware law and procedure, however, Paul's contention is unavailing.

(4) "Time is a jurisdictional requirement."¹ To invoke this Court's appellate jurisdiction, a notice of appeal in a postconviction proceeding must be received by the Clerk² within "[w]ithin thirty days after entry upon the docket" of the order sought to be reviewed.³

(5) In this case, the Superior Court's September 29 order was entered on the docket on September 30, 2011. Thus, any appeal from that order was required to be filed with the Clerk on or before October 31, 2011. Paul did not file the notice of appeal until November 3, 2011.

(6) Paul does not contend, and the record does not reflect, that his failure to file the notice of appeal by October 31, 2011 is attributable to

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Del. Supr. Ct. R. 10(a).

³ Del. Supr. Ct. R. 6(a)(iii).

court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of an appeal.⁴

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 6(a)(iii) and 29(b), that the appeal is DISMISSED. The motion to affirm is moot.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁴ See *Bey v. State*, 402 A.2d 362, 363 (Del. 1979) (permitting review of untimely appeal when delay was “occasioned by court related personnel”).