

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JONATHAN D. WEST,	§
	§
Defendant Below-	§ No. 421, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN00-09-1925
Plaintiff Below-	§
Appellee.	§

Submitted: August 23, 2002

Decided: September 30, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices

ORDER

This 30th day of September 2002, it appears to the Court that:

(1) On July 22, 2002, the defendant-appellant, Jonathan D. West, filed an “amended notice of appeal” from the Superior Court’s May 24, 2002 order finding him in violation of probation (“VOP”). Pursuant to Supreme Court Rule 6, a timely notice of appeal from the May 24, 2002 order should have been filed on or before June 24, 2002.

(2) On July 24, 2002, the Clerk of this Court issued a notice directing West 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 August 7, 2002. The appellant states that he told his trial attorney he wanted to file an appeal from the Superior Court's finding of a VOP, but his attorney told him there were no viable claims to be raised in an appeal. The appellant then states that he filed a notice of appeal within the applicable time period, but later filed an "amended notice of appeal" in order to designate the trial transcript and inform this Court that his attorney did not fulfill his obligation to file a timely appeal. The Supreme Court docket does not reflect that the appellant filed a notice of appeal within the applicable time period pursuant to Supreme Court Rule 6.

(3) Time is a jurisdictional requirement.¹ 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.² An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely

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

²SUPR. CT. R. 10(a).

³*Carr v. State*, 554 A.2d at 779.

notice of appeal is attributable to court-related personnel, his appeal can not be considered.⁴

(4) There is nothing in the record that reflects 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 rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.⁵

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

⁴*Bey v. State*, 402 A.2d 362, 363 (1979).

⁵The appellant may raise the issue of his attorney's failure to file a timely notice of appeal in a motion for postconviction relief. SUPER. CT. CRIM. R. 61.