

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEFFREY ALONZO SIMMS,	§
	§ No. 613, 2011
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware, in and
	§ for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 1011003445
	§
Plaintiff Below-	§
Appellee.	§

Submitted: November 18, 2011

Decided: November 29, 2011

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

ORDER

This 29th day of November 2011, it appears to the Court that:

(1) On November 10, 2011, the Court received the appellant's notice of appeal from the Superior Court's April 5, 2011 sentencing order.¹ Pursuant to Supreme Court Rule 6, a timely notice of appeal from the Superior Court's sentencing order should have been filed on or before May 5, 2011.²

¹ The appellant also appeals from the Superior Court's denial of his postconviction motion. However, the Superior Court docket reflects that the Superior Court has not yet decided the motion and, in fact, returned the motion to the appellant on November 16, 2011, due to his noncompliance with Superior Court Rule 61.

² The Superior Court docket reflects that the appellant, who represented himself at trial, initially filed his appeal in the Superior Court on May 18, 2011, thirteen days beyond the due date.

(2) On November 10, 2011, 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 18, 2011. The appellant states only that he has sent a copy of the notice to an attorney.³

(3) Pursuant to Rule 6(a)(ii), a notice of appeal from a sentencing order must be filed within 30 days of the date the sentence is imposed. Time is a jurisdictional requirement.⁴ A notice of appeal must be received by the Clerk of the Court within the applicable time period in order to be effective.⁵ An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.⁶ 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.⁷

(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

³ While the appellant states in his notice of appeal that he was not aware until November 2011 that his notice of appeal had been filed in the wrong forum, he does not explain why his initial notice of appeal was untimely.

⁴ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

⁵ Supr. Ct. R. 10(a).

⁶ *Carr v. State*, 554 A.2d at 779.

⁷ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

exception to the general rule that mandates the timely filing of a notice of appeal. 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/ Jack B. Jacobs
Justice