

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ELWOOD J. ROSS,	§
	§ No. 618, 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. 1012018727
	§
Plaintiff Below-	§
Appellee.	§

Submitted: November 28, 2011  
Decided: December 2, 2011

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

**ORDER**

This 2<sup>nd</sup> day of December 2011, it appears to the Court that:

(1) On November 14, 2011, the Court received the appellant’s notice of appeal from the Superior Court’s order, dated and docketed on September 16, 2011, which denied his motion for sentence modification. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the September 16, 2011 order should have been filed on or before October 17, 2011.

(2) On November 15, 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 28, 2011. The appellant states that the Public

Defender would not file an appeal on his behalf and that he mailed his notice of appeal in early August 2011.

(3) Pursuant to Rule 6(a)(iii), a notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed. Time is a jurisdictional requirement.<sup>1</sup> A notice of appeal must be received by the Clerk of the Court within the applicable time period in order to be effective.<sup>2</sup> An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.<sup>3</sup> Unless the appellant can demonstrate that his failure to file a timely notice of appeal is attributable to court-related personnel, his appeal may not be considered.<sup>4</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 rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that this appeal must be dismissed.

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

<sup>2</sup> Supr. Ct. R. 10(a).

<sup>3</sup> *Carr v. State*, 554 A.2d at 779.

<sup>4</sup> *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

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