

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANN NUNEMANN,	§
	§ No. 635, 2013
Defendant Below,	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 1305000424
Plaintiff Below,	§
Appellee.	§

Submitted: December 12, 2013

Decided: December 20, 2013

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

ORDER

This 20th day of December 2013, it appears to the Court that:

(1) On November 15, 2013, the Court received appellant’s notice of appeal from a Superior Court sentencing order entered on October 15, 2013. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before November 14, 2013.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be dismissed as untimely filed.¹ Appellant filed a response to the notice to show cause on

¹DEL. SUPR. CT. R. 6(a)(ii).

November 20, 2013. She blames her untimely filing on her appointed counsel whom she had requested to file the appeal on her behalf. Appellant's trial counsel filed a letter with the Court acknowledging his responsibility for the appellant's untimely appeal and asking the Court not to dismiss her appeal. The State has filed an answer in opposition to appellant's response, arguing that trial counsel's error is no basis for excusing appellant's untimely filing.

(3) Time is a jurisdictional requirement.² 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.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, her appeal cannot be considered.⁴ Defense counsel is not court-related personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. The Court, therefore, concludes that the within appeal must be dismissed.

(4) Nonetheless, because of defense counsel's admitted error and in the interest of justice and judicial economy, we direct the Superior Court to have new counsel appointed to represent appellant. The Superior Court shall

²*Carr v. State*, 554 A.2d 778, 779 (Del. 1989), *cert. denied*, 493 U.S. 829 (1989).

³DEL. SUPR. CT. R. 10(a).

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

vacate its original sentencing order and resentence appellant so that her new counsel may file a timely appeal on her behalf.

NOW, THEREFORE, IT IS ORDERED pursuant to Supreme Court Rule 29(b) that the within appeal is DISMISSED. The Clerk of this Court is directed to inform the Superior Court forthwith of the further action required by this Order.

BY THE COURT:

/s/ Jack B. Jacobs
Justice