

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRIAN R. MELVIN,	§
	§
Defendant Below,	§ No. 666, 2013
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0509002163
Plaintiff Below,	§
Appellee.	§

Submitted: December 17, 2013

Decided: January 13, 2014

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

ORDER

This 13th day of January 2014, it appears to the Court that:

(1) On December 6, 2013, the Court received appellant's notice of appeal from a Superior Court order, docketed November 4, 2013, denying his motion for postconviction relief. Pursuant to Supreme Court Rule 6(a)(iii), a timely notice of appeal should have been filed on or before December 4, 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 December 17, 2013. He argues that his appeal should be considered timely because he delivered his appeal papers to the prison mail room to be mailed on December 2, 2013, before the filing deadline.

(3) In Delaware, the 30-day appeal period 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 An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Delaware has not adopted a "mailbox rule" that allows us to toll the appeal period for prisoners.⁵ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁶

(4) Prison personnel are not court-related personnel. Consequently, even assuming prison personnel delayed mailing his appeal, this case does not fall within the exception to the general rule that mandates the timely

¹DEL. SUPR. CT. R. 6(a)(iii).

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*Smith v. State*, 47 A.3d 481, 486-87 (Del. 2012).

⁵ *See id.*

⁶*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice