

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ARTURO LABOY,	§
	§ No. 382, 2003
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID 93003649DI
	§
Plaintiff Below,	§
Appellee.	§

Submitted: October 7, 2003
Decided: October 27, 2003

Before **HOLLAND**, **STEELE**, and **BERGER**, Justices.

ORDER

This 27th day of October 2003, upon consideration of the notice to show cause and the parties' responses thereto, it appears to the Court that:

(1) The appellant, Arturo Laboy, filed this appeal on August 4, 2003 from the Superior Court's order, dated July 1, 2003, denying Laboy's motion for postconviction relief. The Clerk of the Court issued a notice, pursuant to Supreme Court Rule 29(b), directing Laboy to show cause why the appeal should not be dismissed for his failure to file the appeal within the thirty-day limitations period.¹

¹ DEL. CODE ANN. tit. 10, § 147 (1999); DEL. SUPR. CT. R. 6(a)(iii) (2003).

(2) In his response, Laboy contends that prison procedures are the cause for the delay in his filing the notice of appeal. Laboy acknowledges that he received the Superior Court's final order on July 4, 2003. He further acknowledges that he did not mail out his notice of appeal until July 29, 2003. Laboy nonetheless asserts that the prison is responsible for his notice of appeal not being timely filed because, as a *pro se* litigant, Laboy contends he needed help researching and writing his notice of appeal. Moreover, Laboy appears to assert that, because he mailed his notice of appeal before the July 31 filing deadline, the prison mail system is responsible for it not being timely received in the Clerk's office.

(3) We find no merit to Laboy's contention. A notice of appeal *must* be received by the Clerk's office within the applicable time period in order to invoke this Court's appellate jurisdiction. An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of the statute and court rule.² Unless Laboy can establish that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.³

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

³ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

(4) By Laboy's own admission, the delay in this case is not 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. Laboy's appeal, therefore, must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the within appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Justice