

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TERRENCE WATSON aka	§
SIDDIQ A. ALEEM,	§
	§ No. 185, 2002
Plaintiff Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
COMMISSIONER STANLEY	§ C.A. No. 02C-02-230
TAYLOR, WARDEN RAPHAEL	§
WILLIAMS, et al.,	§
	§
Defendants Below-	§
Appellees.	§

Submitted: August 9, 2002

Decided: September 23, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices

**ORDER**

This 23<sup>rd</sup> day of September 2002, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The plaintiff-appellant, Terrence Watson aka Siddiq A. Aleem, filed an appeal from the March 5, 2002 order of the Superior Court dismissing his complaint as frivolous. Because the dismissal of Aleem's complaint constituted an abuse of discretion, we REVERSE the decision of the Superior

Court and REMAND this matter for further proceedings in accordance with this Order.

(2) On February 14, 2002, Aleem, then an inmate at the Multi-Purpose Criminal Justice Facility at Gander Hill (“MPCJF”),<sup>1</sup> filed a civil complaint in the Superior Court alleging violations of his state and federal constitutional rights due to improper placement within the prison system, lack of access to rehabilitation, overcrowded and unsanitary conditions, and lack of proper food and medical care. Along with his complaint, Aleem also filed a motion to proceed in forma pauperis.<sup>2</sup>

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<sup>1</sup>The record indicates that Aleem has been transferred to the Delaware Correctional Center (“DCC”).

<sup>2</sup>DEL. CODE ANN. tit. 10, Chap. 88.

(3) On March 5, 2002, the Superior Court granted Aleem's motion to proceed in forma pauperis, but dismissed his complaint as legally frivolous.<sup>3</sup> In dismissing the complaint, the Superior Court reasoned as follows: "The complaint fails to state or define a specific cause of action or the law upon which it is based. The plaintiff seems to be arguing that the Department of Correction has failed to carry out his sentence as directed particularly in terms of his access to rehabilitative treatment. Exactly how or why this constitutes any legally cognizable cause of action is unclear."

(4) Aleem's notice of appeal was filed in this Court on April 8, 2002. In its answering brief, the State of Delaware, as the real party in interest, argues that the Superior Court properly dismissed Aleem's complaint as legally frivolous and, moreover, that Aleem's notice of appeal was untimely filed and his complaints regarding conditions at the MPCJF are moot.

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<sup>3</sup>DEL. CODE ANN. tit. 10, § 8803(b).

(5) In cases where a plaintiff has applied for in forma pauperis status, the Superior Court is required by statute to review the plaintiff's complaint to determine if it is factually frivolous, malicious or legally frivolous.<sup>4</sup> In this case, the Superior Court determined that Aleem's complaint was legally frivolous, but only to the extent that the complaint alleged a violation of constitutional rights due to improper placement within the prison system and lack of access to rehabilitation. The Superior Court failed to address the additional claims made in Aleem's complaint concerning conditions at the MPCJF. This matter must be remanded to the Superior Court so that those claims may be addressed.

(6) The State also argues that Aleem's appeal should be dismissed because his notice of appeal was untimely filed. While it appears that Aleem's notice of appeal was filed beyond the required 30-day period,<sup>5</sup> the Superior Court docket sheet reflects that the Prothonotary did not send Aleem a copy of

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<sup>4</sup>Id.

<sup>5</sup>The Superior Court docket sheet reflects that the Superior Court's order was docketed on March 5, 2002. The Supreme Court docket sheet reflects that Aleem's notice of appeal was filed in this Court on April 8, 2002, which was beyond the required 30-day period. SUPR. CT. R. 6.

the Superior Court's March 5, 2002 order until March 11, 2002. Under these circumstances, dismissal for untimeliness is not warranted.<sup>6</sup>

(7) Finally, the State argues that Aleem's transfer from the MPCJF to DCC renders his claims about prison conditions moot in any case. Whether some or all of Aleem's claims in connection with conditions at the MPCJF are moot<sup>7</sup> should be addressed by the Superior Court in the first instance on remand.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is REVERSED and REMANDED for further proceedings in accordance with this Order.

BY THE COURT:

s/ Joseph T. Walsh  
Justice

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<sup>6</sup>*Bey v. State*, 402 A.2d 362, 363 (Del. 1979) (An untimely notice of appeal will be considered by the Court if the error is attributable to court-related personnel.)

<sup>7</sup>*General Motors Corporation v. New Castle County*, 701 A.2d 819 (Del. 1997); *Williamson v. Taylor*, Del. Supr., No. 318, 1998, Walsh, J. ( Dec. 8, 1998).

