

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MAAHIR B. ISMAAEEL,	§
	§ No. 59, 2007
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0304002130
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 22, 2007

Decided: April 2, 2007

Before **HOLLAND, BERGER** and **JACOBS**, Justice .

ORDER

This 2nd day of April 2007, it appears to the Court that:

(1) In November 2006, Ismaaeel filed his second motion for postconviction relief. The Superior Court denied the motion by order dated January 4, 2007, which was docketed on January 5, 2007. Ismaaeel filed his notice of appeal in this Court on February 8, 2007. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the January 5, 2007 order should have been filed on or before February 5, 2007.

(2) On February 12, 2007, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. Ismaaeel filed his

response to the notice to show cause on February 15, 2007. He states that he did not receive the Superior Court's decision until January 19, 2007 and, therefore, the appeal was filed within the required 30-day period. Pursuant to Supreme Court Rule 6, a notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed.

(3) Time is a jurisdictional requirement.¹ 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.² An appellant's pro se status does not excuse a failure to strictly comply with the jurisdictional requirements of Supreme Court Rule 6.³ 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.⁴

(4) There is nothing in the record reflecting that Ismaeel'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 the within appeal must be dismissed.

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

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

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

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

BY THE COURT:

/s/ Carolyn Berger
Justice