

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DOUGLAS FIELDS,	§	
	§	No. 420, 2007
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0307008810
Appellee.	§	

Submitted: September 4, 2007

Decided: November 5, 2007

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

ORDER

This 5th day of November 2007, the Court has considered the appellant's untimely notice of appeal,¹ the Clerk's notice directing the appellant to show cause why the appeal should not be dismissed,² and the appellant's responses to the notice to show cause.³ It appears to the Court

¹The notice of appeal was filed on August 10, 2007 from the Superior Court's order dated and docketed on July 9, 2007, denying the appellant's *pro se* motion for postconviction relief. *See* Del. Supr. Ct. R. 6(a) (providing for thirty-day period to file notice of appeal).

² *See* Del. Supr. Ct. R. 29(b) (governing involuntary dismissal upon notice of the Court).

³ It appears that the appellant filed two responses to the notice to show cause. The first response, a letter dated August 21, 2007, was initially misfiled in No. 182, 2007, the appellant's prior related appeal that was closed in April 2007. The appellant's August 21, 2007 letter explains that his notice of appeal was delayed because it was returned to him marked postage due. The appellant's second response, a letter filed on September 4, 2007, encloses the appellant's voluntary dismissal of his prior appeal. *See Fields v. State*,

that the appeal should be dismissed. The appellant's failure to timely file the notice of appeal is not attributable to court-related personnel.⁴ Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.⁵

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

BY THE COURT:

/s/ Carolyn Berger
Justice

Del. Supr., No. 182, 2007 (April 18, 2007), *appeal voluntarily dismissed*. The appellant contends that the letter voluntarily dismissing his prior appeal manifested his intent to file his current appeal in the event the Superior Court denied his motion for postconviction relief.

⁴ *E.g.*, *Land v. State*, 2006 WL 1061768 (Del. Supr.) (dismissing untimely appeal when delay in filing notice of appeal was due to insufficient postage).

⁵ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).