

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES ARTHUR BIGGINS,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,
Appellee.

No. 63, 2000

Court Below: Superior Court
of the State of Delaware in and
for Sussex County

C.A. No. 99M-09-018

Submitted: February 22, 2000

Decided: February 29, 2000

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

ORDER

This 29th day of February 2000, it appears to the Court that:

(1) On February 14, 2000, the Court received the appellant's untimely notice of appeal from the Superior Court's order of October 7, 1999.

Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before November 8, 1999.

(2) On February 14, 2000, 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. The appellant's response to the notice to show cause was filed on February 22, 2000.

(3) In appellant's response to the notice to show cause he states that he was unaware of the procedures that followed his habeas corpus motion in Superior Court and he requested a rehearing, which was denied. He states that he then filed a complaint in the Court on the Judiciary, which was dismissed.

Time is a jurisdictional requirement. *Carr v. State*, Del. Supr., 554 A.2d 778, *cert. denied*, 493 U.S. 829 (1989). A notice of appeal *must* be received by the Office of the Clerk of the Supreme Court within the applicable time period in order to be effective. Supr. Ct. R. 10(a).

(4) An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6. *Carr v. State, supra*. Unless the appellant can demonstrate that his failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered. *Bey v. State*, Del. Supr., 402 A.2d 362, 363 (1979).

(5) There is nothing in the record that reflects that appellant'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.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 6 and 29(b), that the within appeal is DISMISSED.

BY THE COURT:

s/Joseph T. Walsh
Justice