

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NELSON M. HOOVER,

Defendant Below,  
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,  
Appellee.

No. 208, 2000

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

Cr. A. Nos. S93-02-0380, -0389, -  
0395, -0396; and S93-09-2123  
Cr. ID No. 93S00590DUI

Submitted: June 26, 2000

Decided: July 13, 2000

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

**ORDER**

This 13<sup>th</sup> day of July 2000, it appears to the Court that:

(1) On May 3, 2000, the Court received the appellant's notice of appeal from a Superior Court order dated March 31, 2000. Pursuant to Supreme Court Rule 6, a timely notice of appeal from a March 31, 2000, order should have been filed on or before May 1, 2000. On May 9, 2000, appellant filed an amended notice of appeal indicating that he wished to appeal Superior Court's April 24, 2000, order, a filing that would have been timely. On May 25, 2000, however, appellant filed a document opining that he wished to appeal the March 31<sup>st</sup> order, not the April 24<sup>th</sup> order. He stated that he had erroneously filed the appeal from the April 24<sup>th</sup> order in Superior Court when he should have filed it in the Supreme Court.

(2) On June 2, 2000, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal from the March 31, 2000, order should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on June 12, 2000, wherein he stated that, as a *pro se* litigant, he “assumed that [the notice of appeal] had to be sent to the ‘deciding’ court.” He claims that he “was uninformed and misled” to file the notice of appeal in the Superior Court,” and that the Superior Court should have informed him that his notice of appeal was improper and “should have been resubmitted in the proper forum.”

(3) On June 26, 2000, the State filed a response to appellant’s response to the Notice to Show Cause rebutting appellant’s arguments. On June 30, 2000, appellant filed a response to the State’s response disputing the State’s response.

(4) Time is a jurisdictional requirement. *Carr v. State*, Del. Supr., 554 A.2d 778, 779, *cert. denied*, 493 U.S. 829 (1989). 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. Supr. Ct. R. 10(a). 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*, 554 A.2d at 779. 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. *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 Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ E. Norman Veasey  
Chief Justice