

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE A. JACKSON,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,
Appellee.

No. 387, 2000

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

C.A. No. 99C-12-030

Submitted: August 22, 2000

Decided: September 1, 2000

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

ORDER

This first day of September 2000, it appears to the Court that:

(1) On August 9, 2000, the Court received the appellant's notice of appeal from a July 7, 2000, Order of Superior Court. Pursuant to Supreme Court Rule 6, a timely notice of appeal from a July 7, 2000, order should have been filed on or before August 7, 2000.

(2) On August 10, 2000, the Assistant Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal from the July 7, 2000, order should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on August 22, 2000.

Appellant contends in his response that he was served by mail on July 11th with the order from Superior Court, and that he placed his notice of appeal in the institutional system mailbox on August 4, 2000. He claims that under Supreme Court Rule 11(c), he was entitled to an additional three days' time for filing of his appeal. Pursuant to Supreme Court Rule 6(a)(iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the judgment or order being appealed, regardless of the date on which the order was received. Furthermore, appellant's reliance on the provisions of Supreme Court Rule 11(c) is misplaced. Supreme Court Rule 11(c) relates to service of papers upon one party by another party after an appeal has commenced. It has no application to the time limitation which governs the initiation of an appeal. *Root v. Stout, et al.*, Del. Supr., No. 152, 1984, Moore, J. (July 3, 1984) (ORDER).

(3) 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).

(4) 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/ Randy J. Holland
Justice