

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT D. UNDERWOOD,

Claimant/Appellant Below,
Appellant,

v.

BEATTY, INC.,

Employer/Appellee Below,
Appellee.

No. 223, 2000

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

C.A. No. 00A-01-001

Submitted: May 22, 2000

Decided: May 25, 2000

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

ORDER

This 25th day of May 2000, it appears to the Court that:

(1) On May 11, 2000, the Court received the appellant's notice of appeal from an order of Superior Court dated April 10, 2000. Pursuant to Supreme Court Rule 6, a timely notice of appeal from an April 10, 2000 order should have been filed on or before May 10, 2000.

(2) On May 11, 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 filed his response to the notice to show cause on May 22, 2000. In his response, the appellant states that he

believed that he had from the date he received the decision in the mail to appeal the decision. Supreme Court Rule 6 states that a notice of appeal in a civil case must be filed in the office of the Clerk within 30 days after entry upon the docket of a judgment, order or decree from which the appeal is taken.

(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/ Carolyn Berger
Justice