

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARK A. CONWAY,	§
	§
Defendant Below-	§ No. 504, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0012009452
Plaintiff Below-	§
Appellee.	§

Submitted: November 2, 2005

Decided: January 26, 2006

Before **STEELE**, Chief Justice, **BERGER**, and **RIDGELY**, Justices.

ORDER

This 26th day of January 2006, it appears to the Court that:

(1) On October 17, 2005, the Court received the appellant's notice of appeal from a Superior Court order, docketed September 14, 2005, which denied the appellant's motion for reduction of sentence. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before October 14, 2005.

(2) The State of Delaware filed a motion to dismiss the appeal on the ground that it was not timely filed.¹ The appellant filed a response to the

¹Supr. Ct. R. 6(a)(iii).

motion to dismiss. The appellant contends that he timely placed his appeal papers in the prison mail system but that, due to a new prison policy, the papers were returned to him for lack of postage. The appellant contends that he should not be penalized for the delay caused by the Department of Corrections mail room.

(3) Time is a jurisdictional requirement.² 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.³ An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ 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.⁵

(4) There is nothing in the record to reflect that the 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

²*Carr v. State*, 554 A.2d 778, 779 (Del.), cert. denied, 493 U.S. 829(1989).

³Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

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

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/ Myron T. Steele
Chief Justice