

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JARID L. CUBBAGE,	§	
	§	No. 153, 2006
Plaintiff Below,	§	
Appellant,	§	Court Below--Superior Court
	§	of the State of Delaware, in and
v.	§	for New Castle County in
	§	New Castle County.
WARDEN THOMAS CARROLL	§	
and SGT. LARRY CONNELLY,	§	
	§	
Defendants Below,	§	C.A. No. 05A-09-007
Appellees.	§	

Submitted: April 10, 2006

Decided: May 18, 2006

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

ORDER

This 18th day of May 2006, upon consideration of the notice of appeal filed by the appellant, the notice to show cause issued by the Clerk, and the appellant's response to the notice, it appears to the Court that:

(1) The appellant, Jarid L. Cubbage, is an inmate at a Delaware correctional facility. On March 24, 2006, the Court received Cubbage's notice of appeal from a Superior Court order dated February 17, 2006 and docketed on February 21, 2006.

(2) On March 24, 2006, the Clerk issued a notice directing that Cubbage show cause why the appeal should not be dismissed for his failure to file the notice of

appeal within thirty days of the Superior Court's order.¹ In his response to the notice, Cabbage contends that prison staff is responsible for the delay in filing the notice of appeal.

(3) Under Delaware law and procedure, a notice of appeal must be received by the office of the Clerk of this Court within the applicable time period.² Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, the untimely appeal cannot be considered.³

(4) The record does not reflect that Cabbage's failure to file the notice of appeal within thirty days is related to court-related personnel.⁴ This case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

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

BY THE COURT:

/s/ Randy J. Holland

Justice

¹Supr. Ct. R. 6(a)(i).

²Supr. Ct. R. 6(a), 10(a); *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

³*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁴*See Brown v. State*, 2004 WL 1535757 (Del. Supr.) (dismissing untimely appeal after concluding that prison law library personnel are not court-related personnel); *Deputy v. Roy*, 2004 WL 1535479 (Del. Supr.) (citing *Carr v. State*, 554 A.2d 778, 779 (Del. 1989) (dismissing untimely appeal after concluding that delay in prison mail system cannot enlarge jurisdictional appeal period).