

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JOHNAS ORTIZ § No. 644, 2001
FOR A WRIT OF HABEAS §
CORPUS §

Submitted: January 15, 2002

Decided: January 18, 2002

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

ORDER

This 18th day of January 2002, upon consideration of the petitioner's "Notice of Appeal for Writ of Habeas Corpus" and the State's response and motion to dismiss, it appears to the Court that:

(1) On December 21, 2001, the petitioner, Johnas Ortiz, filed a document with the Clerk of this Court entitled "Notice of Appeal for Writ of Habeas Corpus." The document was docketed as a petition for a writ of habeas corpus. Ortiz's petition, to the extent that it requests the issuance of a writ of habeas corpus, manifestly fails on its face to invoke the original jurisdiction of the Court. Pursuant to 10 Del. C. § 6901, only the Superior Court, and in some cases the Family Court, is authorized to issue writs of habeas corpus. It is well settled that this Court simply has no original jurisdiction to issue a writ of habeas corpus.¹ Accordingly, the State's motion to dismiss Ortiz's petition for a writ of habeas corpus is granted.

¹*In re Cantrell*, 678 A.2d 525, 526 (Del. 1996); *Rocker v. State*, 240 A.2d 141, 142 (Del. 1968); DEL. CODE ANN. tit.10, § 6901 (1999).

(2) To the extent Ortiz's petition can be construed as a notice of appeal from the Superior Court's denial of habeas corpus relief, his appeal is untimely. The Superior Court docket reflects that Ortiz filed a petition for a writ of habeas corpus in that court on November 1, 2001. The Superior Court denied Ortiz's petition on November 5, 2001. To perfect an appeal from that decision, Ortiz was required to file his notice of appeal with the Clerk of this Court on or before December 5, 2001.² Ortiz did not file his Notice of Appeal for Writ of Habeas Corpus until December 21, 2001. The 30-day time period for filing a notice of appeal with this Court is a jurisdictional requirement and may not be enlarged by the Court.³

NOW, THEREFORE, IT IS ORDERED that the Notice of Appeal for Writ of Habeas Corpus is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice

²DEL. SUP. CT. R. 6(a)(i); DEL. CODE ANN. tit. 10, § 148 (1999).

³See *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).