

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES R. McCAUGHEY,	§
	§ No. 739, 2010
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court of
v.	§ the State of Delaware, in and for
	§ New Castle County
PHIL MORGAN, Warden, HRYCI,	§ C.A. No. N10M-10-080
State of Delaware,	§ Cr. ID No. 85002951DI
	§
Respondents Below-	§
Appellees.	§

Submitted: January 6, 2011
Decided: January 10, 2011

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 10th day of January 2011, it appears to the Court that:

(1) On November 30, 2010, the Court received the appellant's notice of appeal from the Superior Court's October 21, 2010 order denying his petition for a writ of habeas corpus. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the Superior Court's order should have been filed on or before November 22, 2010.

(2) On November 30, 2010, 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 a

response on December 15, 2010, in which he states that he was not sent a copy of the Superior Court's order in time to file a timely notice of appeal.

(3) Pursuant to Rule 6, a notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed. Time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of the Court within the applicable time period in order to be effective.² An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal may not be considered.⁴

(4) There is nothing in the record before us reflecting 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 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.

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice