

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES R. McCAUGHEY,	§
	§ No. 738, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 85002951DI
	§
Plaintiff Below-	§
Appellee.	§

Submitted: December 27, 2010

Decided: January 10, 2011

Before **HOLLAND, BERGER** and **JACOBS**, 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 September 24, 2010 violation of probation (“VOP”) sentencing order. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the September 24, 2010 order should have been filed on or before October 25, 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 his

response to the notice to show cause on December 15, 2010.¹ In his response, the appellant states that he was confused about the purpose of the VOP hearing, he did not receive a copy of the sentencing order until he requested it and, as a *pro se* prisoner, he did not have adequate access to the prison law library. He requests that the Court excuse the untimeliness of his appeal on those grounds.

(3) Pursuant to Rule 6(a)(ii), a notice of appeal from a VOP sentencing order must be filed within 30 days of the date sentence is imposed. Time is a jurisdictional requirement.² 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.³ An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of 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 may not be considered.⁵

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal is attributable to court-related personnel. Consequently, this case does not fall within the exception

¹ The State filed a reply on December 27, 2010.

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

³ Supr. 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/ Carolyn Berger
Justice