

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD MCNAIR,

Defendant Below,  
Appellant,

v.

STATE OF DELAWARE,

Plaintiff Below,  
Appellee.

No. 6, 2001

Court Below: Superior Court of  
the State of Delaware in and for  
New Castle County in Cr.A.Nos.  
IN96-08-0853, 0854, 0857, 0858.

Cr. ID No. 9608002165

Submitted: January 16, 2001

Decided: January 22, 2001

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices.

**ORDER**

This 22<sup>nd</sup> day of January 2001, it appears to the Court that:

(1) On January 3, 2001, the Court received the appellant's notice of appeal from a Superior Court decision dated November 29, 2000. Pursuant to Supreme Court Rule 6, a timely notice of appeal from a November 29, 2000, decision should have been filed on or before January 2, 2001.

(2) On January 4, 2001, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal from the November 29, 2000, decision should not be dismissed for his failure to file a notice of appeal within 30 days after entry upon the docket of the decision from

which the appeal is taken, as required by Supreme Court Rule 6. The appellant filed a response to the notice to show cause on January 16, 2001. Appellant contends in his response that due to the holidays and the opening of a new facility at the Delaware Correctional Center, he was not able to be listed for the law library and did not know how to file a proper appeal.

(3) Time is a jurisdictional requirement. *Carr v. State*, Del. Supr., 554 A.2d 778, 779, *cert. denied*, 493 U.S. 829 (1989). 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. *Id.* (citing 10 *Del. C.* § 147; Supr. Ct. R. 6(a), 10(a)). An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6. *Id.* 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. *Bey v. State*, Del. Supr., 402 A.2d 362, 363 (1979).

(4) There is nothing in the record that reflects that 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.

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

BY THE COURT:

/s/ Randy J. Holland  
Justice