

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL E. PALMER,<sup>1</sup>

Petitioner Below-  
Appellant,

v.

DCSE/INDIA VAUGHN,

Respondent Below-  
Appellee.

§

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§ No. 533, 2011

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§ Court Below—Family Court

§ of the State of Delaware,

§ in and for Sussex County

§ File No. CS02-04232

§ Petition Nos. 11-16655 and

§ 11-12938

Submitted: October 14, 2011

Decided: November 29, 2011

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

**ORDER**

This 29<sup>th</sup> day of November 2011, it appears to the Court that:

(1) On October 5, 2011, the Court received appellant's notice of appeal from a Family Court order, dated August 25, 2011, which denied his petition for a rule to show cause and also denied his motion to contest an administrative adjustment. Pursuant to Supreme Court Rule 6(a)(i), a timely notice of appeal should have been filed on or before September 26, 2011.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be

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<sup>1</sup> The Court has assigned pseudonyms to the parties pursuant to Supreme Court Rule 7(d).

dismissed as untimely filed.<sup>2</sup> Appellant filed a response to the notice to show cause on October 14, 2011. He asserts that his appeal should not be deemed late because the thirty day appeal period did not begin to run until August 29, when he received the Family Court's order, and that his appeal thus was timely filed when he placed it in the prison mailbox on September 28.

(3) We find no merit to appellant's arguments. Time is a jurisdictional requirement.<sup>3</sup> 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.<sup>4</sup> An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.<sup>5</sup> 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.<sup>6</sup>

(4) There is nothing in the record to reflect that appellant's untimely filing is attributable to court-related personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the

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<sup>2</sup>Del. Supr. Ct. R. 6(a)(i).

<sup>3</sup>*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

<sup>4</sup>Del. Supr. Ct. R. 10(a).

<sup>5</sup>*Carr v. State*, 554 A.2d at 779.

<sup>6</sup>*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

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