

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL YOST, JR.,	§
	§ No. 17, 2008
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. 0608025346
	§
Plaintiff Below-	§
Appellee.	§

Submitted: January 17, 2008

Decided: January 25, 2008

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

**ORDER**

This 25<sup>TH</sup> day of January 2008, it appears to the Court that:

(1) On January 8, 2008, the Court received the appellant's notice of appeal from the Superior Court's March 28, 2007 violation of probation sentencing order. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before April 27, 2007.<sup>1</sup>

(2) On January 8, 2008, 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

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<sup>1</sup> The appellant's notice of appeal incorrectly designates the date of the Superior Court order as March 22, 2007.

response to the notice to show cause on January 17, 2008. The appellant states that his constitutional rights have been violated, but does not explain why his notice of appeal was untimely filed. Pursuant to Supreme Court Rule 6(a) (iii), a notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed.

(3) Time is a jurisdictional requirement.<sup>2</sup> 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.<sup>3</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>4</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>5</sup>

(4) There is nothing 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.

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

<sup>3</sup> Supr. Ct. R. 10(a).

<sup>4</sup> *Carr v. State*, 554 A.2d at 779.

<sup>5</sup> *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

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

BY THE COURT:

/s/ Carolyn Berger  
Justice