

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWIN SCARBOROUGH,	§
	§
Defendant Below,	§ No. 195, 2022
Appellant,	§
	§ Court Below: Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. I.D. No. 2105009157 (K)
	§
Appellee.	§

Submitted: July 5, 2022
Decided: July 25, 2022

Before **VAUGHN, TRAYNOR, and MONTGOMERY-REEVES**, Justices.

ORDER

After consideration of the notice to show cause and the responses, it appears to the Court that:

(1) On June 6, 2022, the appellant, Edwin Scarborough, filed this appeal from a Superior Court order dated and docketed on April 29, 2022, that sentenced him for a violation of probation. Under Supreme Court Rules 6 and 11, a timely notice of appeal should have been filed on or before May 31, 2022.

(2) The Senior Court Clerk issued a notice directing Scarborough to show cause why the appeal should not be dismissed as untimely filed. In response to the notice to show cause, Scarborough states that he filed his notice of appeal late

because a pandemic-related quarantine of his housing unit from May 25, 2022, through June 3, 2022, limited his access to the prison law library.

(3) A notice of appeal must be timely filed to invoke the Court’s appellate jurisdiction.¹ A notice of appeal must be received by the Court within the applicable time period to be effective.² Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.³ The failure to file a timely appeal in this case is not attributable to court-related personnel.⁴ Therefore, the appeal must be dismissed.

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

BY THE COURT:

/s/ Gary F. Traynor
Justice

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

² DEL. SUPR. CT. R. 10(a).

³ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁴ See *Whiteman v. State*, 2021 WL 129945 (Del. Jan. 11, 2021) (holding that untimeliness of appeal was not attributable to court-related personnel where appellant argued that his efforts to file a notice of appeal were delayed because of prison restrictions related to the COVID-19 pandemic, “including imposition of a fourteen-day quarantine period following his transfer from the violation-of-probation center and limited access to the law library”); *Johnson v. State*, 2006 WL 197180 (Del. Jan. 24, 2006) (holding that untimeliness of appeal was not attributable to court-related personnel where appellant argued that he had to wait several weeks before gaining access to the prison law library).