

SUPREME COURT OF THE STATE OF DELAWARE

Phillips v. State

Phillips · No. No. 203, 2018 · Decided July 20, 2018

SUMMARY

The Delaware Supreme Court remanded the matter after determining that Phillips's notice of appeal from the denial of postconviction relief was untimely. Although prison personnel are not court-related personnel, the Court found that an inaccurate mailing address supplied by the prison law library warranted vacating and reissuing the Superior Court's order to provide Phillips an opportunity to file a timely appeal.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	James T. Vaughn, Jr., Justice; Valihura, Justice; Vaughn, Justice; Seitz, Justice
JURISDICTION	Delaware
DECIDED	July 20, 2018
DOCKET	No. 203, 2018
DISPOSITION	remanded
PROCEDURAL POSTURE	Phillips appealed from the Superior Court's denial of his motion for postconviction relief. The Delaware Supreme Court issued a notice to show cause why the appeal should not be dismissed as untimely and ultimately remanded the matter to the Superior Court.
STANDARD OF REVIEW	The appeal was reviewed for timeliness under the Delaware Supreme Court Rules governing the filing and receipt of notices of appeal.
PRECEDENTIAL VALUE	published Delaware Supreme Court order
PARTIES	Ron C. Phillips v. State of Delaware

TOPICS

- appellate procedure
- appellate jurisdiction
- post-conviction relief
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- postconviction relief

QUESTIONS PRESENTED

1. Whether the appeal had to be dismissed because the notice of appeal was not received within the applicable filing period.
2. Whether inaccurate mailing information supplied by prison law-library personnel justified excusing the untimely filing or otherwise warranted relief.

HOLDINGS

1. A notice of appeal must be received by the Delaware Supreme Court within the applicable filing period to be effective.
2. Prison personnel are not court-related personnel, so a delay caused by prison personnel ordinarily cannot excuse an untimely notice of appeal.
3. Although the untimely filing could not be excused on the ground that prison personnel caused the delay, the matter should be remanded so the Superior Court could vacate and re-issue its order, giving Phillips an opportunity to file a timely notice of appeal.

KEY QUOTATIONS

“A notice of appeal must be received by the Court within the applicable time period to be effective.” (at 2)

“Prison personnel are not court-related personnel.” (at 2)

FACTUAL BACKGROUND

Phillips was incarcerated at the James T. Vaughn Correctional Center. He attempted to appeal the Superior Court's January 22, 2018 order, but the notice was not received by the Clerk within the applicable period. Phillips submitted evidence that the prison law library had supplied inaccurate and outdated mailing addresses for Delaware courts, causing his envelope to be returned and delaying filing.

PROCEDURAL HISTORY

The Superior Court denied Phillips's motion for postconviction relief on January 22, 2018. Phillips filed his notice of appeal on April 23, 2018, after the applicable deadline. He asserted that the delay resulted from relying on an inaccurate mailing address supplied by the prison law library. After confirming that the address list contained inaccurate court addresses, the Supreme Court remanded with directions to vacate and re-issue the Superior Court's order so Phillips could file a timely appeal.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Superior Court was directed to vacate its January 22, 2018 order and re-issue the order to provide Phillips an opportunity to file a timely notice of appeal. The Supreme Court did not retain jurisdiction.

CASES CITED

- Bey v. State, 402 A.2d 362, 363 (Del. 1979)
- Brown v. State, 2004 WL 1535757, at *1 (Del. July 2, 2004)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE RON C. PHILLIPS, § § No. 203, 2018 Defendant Below, § Appellant, § Court Below: Superior Court of the § State of Delaware v. § § Cr. ID No. 1211004419 (N) STATE OF DELAWARE, § § Plaintiff Below, § Appellee. § Submitted: June 25, 2018 Decided: July 20, 2018 Before VALIHURA, VAUGHN, and SEITZ, Justices. ORDER (1) The appellant, Ron C. Phillips, is incarcerated at the James T. Vaughn Correctional Center (“JTVCC”).

On April 23, 2018, Phillips filed a notice of appeal from the Superior Court’s order of January 22, 2018, denying his motion for postconviction relief. The appeal was untimely filed. To be timely filed, the notice of appeal had to be received by the Clerk, or a Deputy Clerk in any county, on or before Monday, February 22, 2018.¹ (2) 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 1 Del.

Sup. Ct. R. 6(a)(iii), 10(a), 11(a). 2 Del. Sup. Ct. R. 10(a). to file a timely appeal is attributable to court-related personnel, the appeal cannot be considered.³ (3) In this case, the Clerk issued a notice directing Phillips to show cause why the appeal should not be dismissed as untimely filed. Phillips filed a response to the notice, and at the Court’s request, the State filed a reply.

(4) Phillips asks the Court not to dismiss the appeal, claiming that he relied on inaccurate information provided by the JTVCC law library when he addressed the envelope for the appeal papers. Phillips supports his claim with a photocopy of his incorrectly-addressed notice of appeal envelope bearing a February 13, 2018 postmark, a post office return-to-sender sticker, and a JTVCC mailroom date stamp reflecting that the envelope was received on April 12, 2018.

Phillips contends that he should not be held responsible for the filing delay that was caused by the incorrect address. (5) At the direction of the Court, the Clerk asked the State to file a reply to Phillips’ response and to submit to the Court a copy of the address list that the JTVCC law library provides to the prisoners.

The address list, which is attached as Exhibit A to the State’s reply, lists addresses for the Delaware courts and related legal services. The mailing addresses listed for the Court’s locations in Kent 3 Bey v. State, 402 A.2d 362, 363 (Del. 1979). 2 County— where the Clerk’s Office is located—and in New Castle County—where Phillips sent his notice of appeal—are inaccurate and

out of date.⁴ (6) Prison personnel are not court-related personnel.⁵ Therefore, the delay in filing the notice of appeal cannot be excused.

But, given that the JTVCC law library address list supports Phillips' assertion that the prison provided him with an inaccurate mailing address, the State suggests—and we agree—that this matter should be remanded to the Superior Court with directions to vacate the January 22, 2018 order and to re-issue the order to provide Phillips with an opportunity to file a timely notice of appeal.

NOW, THEREFORE, IT IS ORDERED that this matter is REMANDED to the Superior Court for further action in accordance with this Order. Jurisdiction is not retained. BY THE COURT: /s/ James T. Vaughn, Jr. Justice 4 In its reply, the State indicated that the JTVCC has been notified about the accuracy of the list. ⁵ Brown v. State, 2004 WL 1535757, at *1 (Del. July 2, 2004) (“Prison law library personnel are not court-related personnel.”).