

SUPREME COURT OF DELAWARE

Benner v. Correctional Medical Services

974 A.2d 857 (Del. 2009) · No. No. 89, 2009 · Decided May 22, 2009

SUMMARY

The Delaware Supreme Court dismissed Lawrence Benner’s appeal as untimely. The Court held that filing a notice of appeal with the Superior Court does not satisfy the jurisdictional requirement that the notice be received by the Supreme Court Clerk or a county deputy clerk within the applicable period, absent court-related fault causing the delay.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Myron T. Steele, Chief Justice; Henry duPont Ridgely, Justice; William B. Chandler III, Justice
JURISDICTION	Delaware
DECIDED	May 22, 2009
DOCKET	No. 89, 2009
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the Superior Court's dismissal of a civil complaint; the Supreme Court issued a notice to show cause why the appeal should not be dismissed as untimely.
PRECEDENTIAL VALUE	published
PARTIES	Lawrence Benner v. Correctional Medical Services

TOPICS

- appellate jurisdiction
- appellate procedure
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the appeal had to be dismissed because Benner's notice of appeal was not received by the Delaware Supreme Court within the applicable thirty-day period.

2. Whether filing the notice of appeal with the Superior Court within the appeal period satisfied the jurisdictional filing requirement.
3. Whether the untimely filing could be excused under the exception for delay attributable to court-related personnel.

HOLDINGS

1. Timely filing of a notice of appeal is a jurisdictional requirement, and the notice must be received by the Clerk of the Supreme Court or a Deputy Clerk within the applicable period.
2. Filing a notice of appeal with the Superior Court, rather than with the Supreme Court Clerk or a Deputy Clerk, does not comply with the jurisdictional requirement governing an appeal to the Supreme Court.
3. An untimely notice of appeal may be excused only when the appellant demonstrates that the delay was attributable to court-related personnel; Benner failed to make that showing.

KEY QUOTATIONS

“Time is a jurisdictional requirement. The Clerk of this Court, or a Deputy Clerk in any county, must receive a notice of appeal within the applicable time period.”

FACTUAL BACKGROUND

The Superior Court dismissed Benner's civil complaint on January 21, 2009. Although Benner filed a notice of appeal with the Supreme Court on February 23, 2009, he asserted that he had filed it with the Superior Court earlier in February. The record did not show that court-related personnel caused or contributed to the delay in filing with the Supreme Court.

PROCEDURAL HISTORY

The Superior Court dismissed Benner's civil complaint on January 21, 2009. Benner filed a notice of appeal on February 23, 2009, after the applicable thirty-day deadline, and argued that he had initially filed the notice with the Superior Court in early February. The Supreme Court concluded that filing with the Superior Court did not satisfy the jurisdictional filing requirement and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Carr v. State, 554 A.2d 778, 779 (Del. 1989)
- Smith v. State, 2002 WL 31109924 (Del. Supr.)
- Riggs v. Riggs, 539 A.2d 163, 164 (Del. 1988)