

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN S. SHIPLEY and	§
ROCHELLE D. SHIPLEY,	§ No. 129, 2008
	§
Defendants Below-	§
Appellants,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§ in and for New Castle County
	§ C.A. No. 07T-10-002
NEW CASTLE COUNTY,	§
	§
Plaintiff Below-	§
Appellee.	§

Submitted: April 11, 2008

Decided: April 17, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 17th day of April 2008, it appears to the Court that:

(1) On March 10, 2008, the Court received the appellants' notice of appeal from the Superior Court's orders dated January 18, 2008 and February 14, 2008. The first order denied the appellants' motion to stay sheriff's sale. The second order denied the appellants' motion for reargument. Because the appellants' appeal from the January 18, 2008 order is untimely, it must be DISMISSED. As for the appellants' timely appeal from the February 14, 2008 order, we AFFIRM the Superior Court's judgment.

(2) Time is a jurisdictional requirement.¹ Pursuant to Supreme Court Rule 6, a notice of appeal must be filed within 30 days after entry upon the docket of the judgment or order being appealed. The failure to timely file a notice of appeal may be excused only when such failure is attributable to court-related personnel.² Moreover, a motion for reargument must be filed within 5 business days of the court's decision.³ The required period for the filing of an appeal may not be enlarged by an untimely motion for reargument.⁴

(3) In order to be timely, the appellants' notice of appeal from the Superior Court's January 18, 2008 order had to be filed on or before February 18, 2008. The record reflects that the notice of appeal was not filed until March 10, 2008. Moreover, the record does not reflect that the untimely filing was attributable to court-related personnel. The record reflects that the appellants filed two motions for reargument in the Superior Court---the first on January 29, 2008 and the second on January 30, 2008. In order to be timely, a motion for reargument had to be filed on or before January 25, 2008. Because they were untimely, neither of the motions filed by the appellants served to enlarge the time for filing their notice of appeal.

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

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

³ Super. Ct. Civ. R. 59; Super. Ct. Civ. R. 6.

⁴ *Preform Bldg. Components, Inc. v. Edwards*, 280 A.2d 697 (Del. 1971).

(4) While the appellants timely filed their appeal from the Superior Court's February 14, 2008 order denying their motion for reargument, that appeal is unavailing. Both of the appellants' motions for reargument were untimely and the Superior Court properly denied them on that ground. The Superior Court's February 14, 2008 order must, therefore, be affirmed.

NOW, THEREFORE, IT IS ORDERED that the appellants' appeal from the Superior Court's January 18, 2008 order is DISMISSED. The Superior Court's February 14, 2008 order is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice