

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARJORIE GORMAN,	§
	§
Respondent Below-	§ No. 511, 2000
Appellant,	§
	§
v.	§ Court BelowCFamily Court
	§ of the State of Delaware,
REBECCA STIER,	§ in and for New Castle County,
	§ File No. CN91-6584
Petitioner Below-	§ Petition No. 00-09747
Appellee.	§

Submitted: November 8, 2000
Decided: December 20, 2000

Before **VEASEY**, Chief Justice, **BERGER**, and **STEELE**, Justices.

ORDER

This 20th day of December 2000, upon consideration of the notice to show cause issued to the appellant, the appellee's motion to dismiss, and the appellant's response to the notice to show cause, it appears to the Court that:

(1) The appellant, Marjorie Gorman, filed this appeal on October 24, 2000 from a Family Court decision entered on September 14, 2000. On October 26, 2000, the Clerk of this Court issued a notice to Gorman to show cause why the appeal should not be dismissed for Gorman's failure to file her notice of appeal within the required thirty-day limitations period.² On

²Supr. Ct. R. 6(a)(i); 10 DEL. C. § 148.

October 31, 2000, the appellee, Rebecca Stier, filed a motion to dismiss Gorman's appeal on the ground that it was not filed in a timely manner.

(2) Gorman filed a response to the notice to show cause on November 8, 2000. Gorman does not dispute that her notice of appeal was not filed within the thirty-day limitations period. She contends only that she did not file her appeal within thirty days because she was "trying to work things out with Rebecca Stier."

(3) A notice of appeal in a civil case must be filed within 30 days after entry upon the docket of the final judgment from which the appeal is taken.² In order to have been filed timely, Gorman was required to serve and file her notice of appeal on or before October 16, 2000. Gorman, however, did not file her notice of appeal until October 24, 2000.

(4) This Court has considered carefully the respective positions of the parties and has concluded that Gorman's appeal must be dismissed. The appellate jurisdiction of this Court rests wholly upon the perfecting of an appeal within the period of limitations fixed by law.³ Jurisdictional defects cannot be waived in the absence of unusual circumstances that are not

²See Supr. Ct. R. 6(a)(i).

³*Riggs v. Riggs*, Del. Supr., 539 A.2d 163 (1988) (citing *Fisher v. Biggs*, Del. Supr., 284 A.2d 117, 118 (1971)).

attributable to the appellant or the appellant's counsel.⁴ There is no suggestion in this case that Gorman's failure to file her notice of appeal in a timely manner is attributable to anyone other than Gorman herself. Although it is regrettable, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the within appeal is hereby DISMISSED.

BY THE COURT:

Justice

oc: Clerk of the Court
c: Hon. Mark D. Buckworth
Marjorie Gorman
Vivian Houghton
Court's Distribution List

⁴*Eller v. State*, Del. Supr., 531 A.2d 951, 953 (1987).