

The Court of Common Pleas for Sussex County

COURTHOUSE
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December 4, 2020

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Attorney for Appellee

RE: Edgar Verde v. Jana Simpler, Director, Division of Motor Vehicles
C.A. No.: CPU6-20-000430

Decision on Appellant's Motion for Reargument

Dear Mr. Abram and Ms. Cordo:

The Court is in receipt of Appellant's Motion for Reargument that was filed on September 23, 2020, for the above-referenced matter. The motion was filed pursuant to Court of Common Pleas Civil Rule 59(e). After a careful review of the Appellant's motion, the Appellee's answer, and Appellant's response to the answer by the Court, the motion is denied because it was untimely filed.

As you are aware, on September 15, 2020, the Court entered an Order affirming the decision of the order of the Division of Motor Vehicles and lifting the stay of suspension of Appellant's driver's license. On September 23, 2020, Appellant filed this Motion for Reargument requesting the Court reconsider its Order and consider reassigning the matter to another judge for analysis and ruling.

In the instant case, the Court is unable to consider the Appellant's Motion for Reargument because it was untimely filed. A Motion for Reargument is governed by the Rule 59(e), which states, in pertinent part, "[a] motion for reargument shall be served and filed within 5 days after the filing of the Court's opinion or decision." In computing the 5-day deadline, according to Court of Common Pleas Civil Rule 60(a), the day of filing, the intermediate Saturdays, Sundays and legal holidays are excluded from the computation. The Court's Order was filed on September 15, 2020. Therefore, Appellant had until September 22, 2020 to file his motion. Appellant filed his motion on September 23, 2020 and therefore the motion is untimely.

The Court did not require Appellant to create an account for e-filing at the time of Appellant's original appeal due to his filing traditional paper copies with the Court at the time. However, under the Administrative Directive of the Chief Judge of the Court of Common Pleas No. 2017-1, all civil matters are required to be e-filed. By deciding not to secure an e-file account subsequently, Appellant incurred the risk of missing notifications regarding the matter. Pursuant to Court of Common Pleas Civil Rule 6(b), the Court has "divested itself of the power to enlarge the time [to file] a motion for reargument." *Strong v. Wells Fargo Bank*, 2013 WL 1228028, at * 1 (Del. Super. Jan 3, 2013). Therefore, Appellant's motion must be denied.

CONCLUSION

Pursuant to Court of Common Pleas Civil Rule 59(e), the Appellant's Motion for Reargument was untimely filed. Therefore, the motion is DENIED.

IT IS SO ORDERED this 4th day of December, 2020.

Sincerely,



Rae M. Mims
Judge