

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CARL J. HASKINS, JR.,	§	
	§	No. 455, 2007
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 86012667DI
Appellee.	§	

Submitted: December 19, 2007

Decided: March 11, 2008

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

**ORDER**

This 11th day of March 2008, upon consideration of the appellant’s opening brief and appendix and the appellee’s motion to affirm it appears to the Court that:

(1) The appellant, Carl J. Haskins, Jr., filed this appeal on August 30, 2007 from the Superior Court’s August 16, 2007 summary denial of his motion for reargument. Haskins’ motion for reargument, which was filed on July 17, 2007, sought to reargue the Superior Court’s June 27, 2007 denial of his “Motion to Dismiss Case for Lack of True Bill.”<sup>1</sup> In his opening brief

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<sup>1</sup> The Court notes that Haskins’ previous attempts to challenge his indictment were unsuccessful. *Haskins v. State*, 1991 WL 165563 (Del. Supr.) (affirming denial of

on appeal, Haskins attempts to argue the merit of his “Motion to Dismiss Case for Lack of True Bill.”

(2) The Superior Court procedural rules provide that a motion for reargument must be served and filed within five days<sup>2</sup> of the filing of the order that is sought to be reargued.<sup>3</sup> In this case, Haskins’ motion for reargument, filed twenty days after the filing of the order that was sought to be reviewed, was untimely. It is clear that the Superior Court’s August 16, 2007 summary denial of Haskins’ motion for reargument was not an abuse of discretion.<sup>4</sup>

(3) Moreover, Haskins’ untimely motion for reargument did not toll the time to appeal the June 27, 2007 order.<sup>5</sup> Any appeal of the June 27, 2007 order had to be filed in this Court no later than July 27, 2007.<sup>6</sup> Because Haskins did not file his notice of appeal until August 30, 2007, his

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postconviction relief); *In re Haskins*, 1995 WL 13441 (Del. Supr.) (dismissing petition for writ of prohibition).

<sup>2</sup> See Del. Super. Ct. Crim. R. 45(a) (excluding Saturdays, Sundays and legal holidays).

<sup>3</sup> Del. Super. Ct. Civ. R. 59(e). See Del. Super. Crim. R. 57(d) (providing for application of civil rules).

<sup>4</sup> Cf. *Boyer v. State*, 2007 WL 452300 (Del. Supr.) (concluding that Superior Court had no jurisdiction to consider substance of untimely motion for reargument).

<sup>5</sup> *McDaniel v. DaimlerChrysler Corp.*, 860 A.2d 321, 323 (Del. 2004) (concluding that only timely motion for reargument will delay finality of judgment) (citing to *Preform Bldg. Components, Inc. v. Edwards*, 280 A.2d 697, 698 (Del. 1971) (holding that timely motion for reargument tolls appeal period, but untimely motion does not).

<sup>6</sup> See Del. Supr. Ct. R. 6 (providing for thirty day appeal period).

appeal was untimely. As a result, this Court is without jurisdiction to consider the arguments raised in Haskins' opening brief.<sup>7</sup>

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>7</sup> See, e.g., *Parker v. State*, 2001 WL 213389 (Del. Supr.) (affirming Superior Court denial of defendant's untimely motion for argument and holding that Supreme Court was without jurisdiction to consider merit of appeal from order that was subject to untimely motion for reargument).