

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HUBERT PARKER,	§
	§
Defendant Below-	§ No. 341, 2000
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr.A. No. S99-01-0063, -0065,
	§ -0067, S99-04-0266, -0270,
Plaintiff Below-	§ -0272, and S99-02-0603
Appellee.	§

Submitted: February 2, 2001  
Decided: February 26, 2001

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

**ORDER**

This 26<sup>th</sup> day of February 2001, upon consideration of the briefs of the parties, it appears to the Court that:

(1) On January 24, 2000, the appellant, Hubert Parker, entered *Robinson*<sup>1</sup> pleas to the charges of third degree burglary and possession of cocaine and guilty pleas to the charges of second degree conspiracy, two counts of felony theft, third degree burglary, and criminal mischief. Parker did not file a direct appeal from his convictions and sentences. On March 14, 2000, Parker filed a motion for postconviction relief alleging, among other things, ineffective assistance of counsel. The Superior Court denied his motion on June 1, 2000.

Parker did not file an appeal from that decision but instead filed a motion for reargument on June 14, 2000, which the Superior Court denied on June 29, 2000. Thereafter, Parker filed a notice of appeal in this Court on July 14, 2000.

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<sup>1</sup>*Robinson v. State*, Del. Supr., 291 A.2d 279 (1972).

(2) Although in his opening brief Parker argues the merits of the Superior Court's June 1, 2000 decision denying his motion for postconviction relief, it is clear that Parker did not file his notice of appeal from the June 1 decision within the thirty day limitations period provided for by law.<sup>2</sup> Parker's motion for reargument, which also was not filed in a timely manner, did not toll the thirty day appeal period.<sup>3</sup> In order to have been timely filed, Parker was required to file his motion for reargument on or before June 8, 2000.<sup>4</sup> Because he did not file his motion for reargument until June 14, 2000, his motion could not operate to suspend the finality of the Superior Court's June 1 judgment. His notice of appeal from the June 1 decision, therefore, was due on or before July 3, 2000. He did not file his notice of appeal until July 14, 2000. Accordingly, this Court is without jurisdiction to consider the merits of the Superior Court's June 1 decision.<sup>5</sup>

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<sup>2</sup>See Supr. Ct. R. 6(a)(iii); 10 *Del. C.* § 147.

<sup>3</sup>Only a motion for reargument that is timely filed in the lower court will suspend the running of the thirty day appeal period. See *Linda D.P. v. Robert J.P.*, Del. Supr., 493 A.2d 968 (1985); *Fisher v. Biggs*, Del. Supr., 284 A.2d 117 (1971).

<sup>4</sup>Super. Ct. Civ. R. 59(e) (made applicable by Super. Ct. Crim. R. 57(d)).

<sup>5</sup>See *Duffy v. State*, Del. Supr., No. 498, 1997, Walsh, J. (Mar. 4, 1998)

(3) Considering Parker's appeal from the Superior Court's June 29 decision denying his motion for reargument, we review that decision for abuse of discretion.<sup>6</sup> Because Parker's motion for reargument was not timely filed, we find no abuse in the Superior Court's denial of the motion.<sup>7</sup>

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

s/Joseph T. Walsh  
Justice

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(ORDER).

<sup>6</sup>*See Brown v. Weiler*, Del. Supr., No. 62, 1998, Walsh, J. (Sept. 15, 1998) (ORDER).

<sup>7</sup>*See Preform Building Components, Inc. v. Edwards*, Del. Supr., 280 A.2d 697, 698 (1970).