

IN THE SUPREME COURT OF THE STATE OF DELAWARE

VERA M. HOLMES,	§	
	§	No. 262, 2002
Respondent Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Family Court
	§	of the State of Delaware
DAVID F. WOOLEY,	§	in and for New Castle County
	§	
Petitioner Below,	§	File No. CN00-07650
Appellee.	§	

Submitted: September 24, 2002

Decided: September 25, 2002

Before **HOLLAND, BERGER** and **STEELE**, Justices.

ORDER

This 25th day of September, 2002, on consideration of the briefs of the parties, it appears to the Court that:

1) Vera M. Holmes appeals from a Family Court decision denying her petition for review of three Commissioner Orders. The first Order, dated October 24, 2001, required Holmes to pay her child support obligation to David F. Wooley, the father of her two children. The second Order, dated November 21, 2001, again required Holmes to pay her child support obligation to Wooley, and this time the Order required her to pay costs and attorneys' fees, as well. The third Order, dated January

30, 2002, denied Wooley's request to hold Holmes in contempt for failure to pay the ordered child support.

2) Holmes filed her petition for review of the Commissioner Orders on February 11, 2002, and served her petition by mailing it to Wooley on February 12, 2002. Since the petition for review was not filed and served within the ten days required by Court rule and statute, the Family Court denied Holmes's petition without reaching the merits of her claims.

3) The Family Court committed no error in rejecting the petition as untimely. By statute, "any party...may appeal a final order of a Commissioner to a judge by filing and serving written objections to such order...within 10 days from the date of the Commissioner's order."¹ Family Court Civil Rule 53.1, likewise, requires the objecting party to file its appeal within ten days.

¹10 Del.C. § 915(d)(1).

4) Holmes's petition was untimely. As to the first two Commissioner Orders, the petition exceeded the ten day time limit by several months. As to the last Order, dated January 30, 2002, Holmes's petition had to be filed and served no later than February 11, 2002². The petition was not served, however, until February 12, 2002. Accordingly, the Family Court properly rejected it.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

² The tenth day after the Order was a Saturday (February 9, 2002). As a result, the deadline was extended to the following Monday, February 11, 2002. *Del. Fam. Ct. R. Civ. P. 6(a)*.