

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GERARD ANGELINI,	§
	§ No. 461, 2003
Respondent Below,	§
Appellant,	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
	§ in and for New Castle County
NANCY ANGELINI,	§ File No. CN01-09190
	§ Petition No. 01-31778
Petitioner Below,	§
Appellee.	§

Submitted: October 6, 2003

Decided: October 28, 2003

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

ORDER

This 28th day of October 2003, upon consideration of the appellee's motion to dismiss and the appellant's response thereto, it appears to the Court that:

(1) The appellant, Gerard Angelini ("Husband"), filed this appeal on September 17, 2003 from an order of the Family Court dated February 21, 2003. The Family Court's order divided the parties' property ancillary to their divorce. The appellee, Nancy Angelini ("Wife"), has filed a motion to dismiss this appeal on the ground that it was not filed within thirty days of the Family Court's order as required by statute¹ and this Court's rules.²

¹ DEL. CODE ANN. tit. 10, § 1051(c) (1999).

² DEL. SUPR. CT. R. 6(a)(i) (2003).

(2) Husband has filed a response to Wife's motion to dismiss. Husband acknowledges that his appeal was not timely filed. Husband asserts, however, that his untimely filing should be excused because his poor health prevented him from filing the appeal in a timely manner.

(3) This Court, however, lacks jurisdiction to consider an appeal when the notice of appeal is not filed in a timely manner *unless* the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel.³ Husband's untimely filing in this case is not attributable to court-related personnel. Accordingly, this Court has no jurisdiction to hear Husband's untimely appeal.

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

BY THE COURT:

/s/ Randy J. Holland
Justice

³ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).