

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONALD CARR, ¹	§	
	§	No. 62, 2007
Petitioner Below,	§	
Appellant,	§	Court Below—Family Court of
	§	the State of Delaware, in and for
v.	§	New Castle County
	§	
DIVISION OF FAMILY SERVICES,	§	
	§	
Respondent Below,	§	File No. CN06-02123
Appellee.	§	

Submitted: June 29, 2007
Decided: September 13, 2007

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

ORDER

This 13th day of September 2007, upon consideration of the appellant’s opening brief and appendix and the appellee’s motion to affirm, it appears to the Court that:

(1) In November 2005, the appellee, Division of Family Services (DFS), received a report alleging that the appellant, Ronald Carr, had sexually abused his fourteen-year old daughter. After an investigation into the facts and circumstances of the alleged abuse,² DFS issued written notice of its “inten[t] to substantiate” the

¹By Order dated February 12, 2007, the Court *sua sponte* assigned a pseudonym to the appellant. Del. Supr. Ct. R. 7(d).

²*See generally* Del. Code Ann. tit. 16, ch. 9 (2003 & Supp. 2006) (governing reports and investigations of abuse and neglect of children and Child Protection Registry).

allegations “and enter [information about Carr] on the Child Protection Registry.”³

Carr requested a hearing on the matter, as he had a right to do.⁴

(2) Following Carr’s request for a hearing, DFS filed a “petition for substantiation” of its allegations of abuse.⁵ A Family Court Commissioner held a hearing on the petition on December 7, 2006. By order dated December 11, 2006, the Commissioner concluded that DFS had substantiated the allegations and that Carr should be entered on the Child Protection Registry at Level IV.⁶

(3) Carr appealed the December 11 order, filing his appeal papers in the Family Court on December 28, 2006.⁷ By order dated January 8, 2007, the Family Court dismissed Carr’s appeal as untimely. This appeal followed.⁸

(4) In his opening brief on appeal, Carr challenges the evidentiary basis of the Commissioner’s December 11 order of substantiation. Carr does not address the timeliness of his appeal from the order.

³Del. Code Ann. tit. 16, § 924(a)(2).

⁴*Id.*

⁵Del. Code Ann. tit. 16, § 925.

⁶Del. Code Ann. tit. 16, § 923(a)(4).

⁷*See* Del. Code Ann. tit. 10, § 915(d) (1999 & Supp. 2006) (providing for review of commissioner’s order by a judge of the Family Court); Del. Fam. Ct. Civ. R. 53.1(b) (providing that appeal of commissioner’s order must be filed within ten days from date of order).

⁸ *See* Del. Code Ann. tit. 10, § 921(18) (Supp. 2006) (including Child Protection Registry proceeding in list of proceedings over which Family Court has exclusive original civil jurisdiction); Del. Code Ann. tit. 10, § 1051(a) (1999) (providing that right of appeal in Family Court civil proceeding is to Supreme Court).

(5) An appeal from a Commissioner's order must be filed in the Family Court within ten days from the date of the order.⁹ In this case, Carr filed his appeal on December 28, 2006, seventeen days from the date of the order.

(6) It is clear that the Family Court's dismissal of Carr's appeal should be affirmed on the basis of and for the reasons assigned in the Family Court's order of January 8, 2007. The Family Court did not err when concluding that it could not consider Carr's appeal. Carr lost his right to appellate review when he did not file the appeal within ten days of the Commissioner's order.¹⁰

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁹*Id.*

¹⁰*Richmond v. Div. of Family Serv.*, 1999 WL 734725 (Del. Supr.) (citing *Div. of Child Support Enforcement / Smith v. Neal*, 687 A.2d 1324 (1997)).