

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROGER BIVENS, ¹	§
	§ No. 359, 2014
Petitioner Below-	§
Appellant,	§ Court Below—Family Court
	§ of the State of Delaware,
v.	§ in and for Sussex County
	§
JESSICA BARKLEY,	§ File No. CS09-01929
	§ Petition No. 13-26984
Respondent Below-	§
Appellee.	§

Submitted: July 15, 2014

Decided: July 22, 2014

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

ORDER

This 22nd day of July 2014, it appears to the Court that:

(1) On July 1, 2014, the appellant, Roger Bivens, filed a notice of appeal from a Family Court order dated and mailed on April 25, 2014. Under Supreme Court Rules 6(a)(i) and 11, the notice of appeal should have been filed on or before May 27, 2014.

(2) On July 2, 2014, the Senior Court Clerk issued a notice under Supreme Court Rule 29(b), directing Bivens to show cause why the appeal should not be dismissed as untimely filed. In his response to the notice to show cause

¹ The Court previously assigned pseudonyms to the parties under Supreme Court Rule 7(d).

filed on July 15, 2014, Bivens states that he suffers physical and mental disabilities, he underwent surgery on his right arm, and he has been on bed rest as a result of back problems. He asks that this Court to forgive his untimely appeal.

(3) “Time is a jurisdictional requirement.”² Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, the jurisdictional defect created by an untimely filing of an appeal cannot be excused.³ Medical hardship does not excuse failure to comply strictly with the jurisdictional time requirement for filing an appeal.⁴ Bivens does not contend, and the record does not reflect, that his failure to file a timely appeal is attributable to court-related personnel. Thus, this appeal must be dismissed.

NOW, THEREFORE, IT IS HEREBY ORDERED, under Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

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

⁴ *Dupree v. State*, 2014 WL 3511160 (Del. July 14, 2014); *Wilson v. W.E. Cleaver & Sons, Inc.*, 1998 WL 986038 (Del. Nov. 30, 1998).