

Fiske v. Perry (2007-044)

2007 VT 58

[Filed 08-Jun-2007]

ENTRY ORDER

2007 VT 58

SUPREME COURT DOCKET NO. 2007-044

JUNE TERM, 2007

Dana Fiske	}	APPEALED FROM:
	}	
v.	}	Windham Superior Court
	}	
David A. Perry, DMD	}	DOCKET NO. 159-4-05 Wm cv

In the above-entitled cause, the Clerk will enter:

Appellee moves to dismiss the appeal as untimely filed. The judgment in this case was issued on January 5, 2007, such that the notice of appeal would be due February 4, 2007. See V.R.A.P. 4 (providing thirty days from date of judgment to file notice of appeal). Because this date fell on a Sunday, the notice of appeal was required to be filed by Monday, February 5, 2007. See V.R.A.P. 26 (providing that computation of time is governed by Rule of Civil Procedure 6); V.R.C.P. 6 (providing that, if end of time period falls on a Sunday, filing is due the following business day). Appellant did not file her notice of appeal until February 6, 2007. (FN1) Although appellant had faxed a copy of the notice of appeal on February 5, 2007, Vermont Rule of Appellate Procedure 25(a) does not provide for fax filing of a notice of appeal. Other than personal delivery, Rule 25(a) provides only for filing "by mail addressed to the clerk." Accordingly, the appeal is untimely and is dismissed.

FOR THE COURT:

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice

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Footnotes

FN1. Appellant filed her notice of appeal with this Court, and while an appellant is required to file the notice of appeal with the trial court, if a notice of appeal is mistakenly filed with this Court, it is deemed filed on that date. See V.R.A.P. 4.