

Crocker v. Crocker (2011-226)

2011 VT 82

[Filed 18-Jul-2011]

**ENTRY ORDER**

2011 VT 82

SUPREME COURT DOCKET NO. 2011-226

JULY TERM, 2011

Christine Crocker	}	APPEALED FROM:
	}	
v.	}	Superior Court, Windham Unit,
	}	Family Division
	}	
Daniel Crocker	}	DOCKET NO. 178-5-08 Wmdm

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

¶ 1. We conclude the notice of appeal was untimely filed in this case. A notice of appeal must be filed in the superior court within thirty days of the date of the entry of judgment or order appealed from. V.R.A.P. 4(a). Here, judgment was entered on May 13, 2011, and therefore the notice of appeal needed to be filed by June 13, 2011. A facsimile copy of the notice of appeal

was received on June 13, but this is not an appropriate method for filing the notice of appeal. V.R.C.P. 5(e) (listing means by which filing may be accomplished to include delivery or sending by first-class mail or commercial carrier). Further, although the rule allows filing to be made with a judge “by any method permitted by the judge,” the record does not indicate that any such permission was sought or received. See Reporter’s Notes—2006 Amendment, V.R.C.P. 5 (explaining that rule is in line with current practice that may allow fax filing in particular case on showing of good cause). The original notice of appeal was not received by mail until June 14, 2011, one day beyond the deadline. Therefore, the appeal is dismissed.

BY 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