

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID P. FIELDS, ¹	§
	§ No. 601, 2011
Respondent Below-	§
Appellant,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware
	§ in and for New Castle County
ALISON DAVIS,	§ File No. CN09-02345
	§ Petition No. 09-12983
Petitioner Below-	§
Appellee.	§

Submitted: May 18, 2012

Decided: June 19, 2012

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

ORDER

This 19th day of June 2012, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The respondent-appellant, David P. Fields (“Father”), filed an appeal on November 7, 2011 from the Family Court’s order, dated and docketed on August 18, 2011, which adopted the Family Court Commissioner’s March 18, 2011 report and recommendation and its October 6, 2011 order denying his motion for reargument. We find no merit to the appeal. Accordingly, we affirm.

¹ By Order dated November 8, 2011, the Court *sua sponte* assigned pseudonyms to the parties. Supr.Ct. R. 7(d).

(2) The record before us reflects that, on March 18, 2011, following a hearing, the Family Court Commissioner issued an order regarding the apportionment of child support between Father and the petitioner-appellee, Alison Davis (“Mother”). Thereafter, Father filed a request for review of the Commissioner’s order to which Mother filed a response. On August 18, 2011, the Family Court issued its order on Father’s request for review. Finding no error or abuse of discretion, the Family Court accepted the Commissioner’s recommendation. On October 6, 2011, the Family Court denied Father’s motion for reargument on the ground of untimeliness.

(3) In his appeal, Father claims that there was insufficient evidence on the record to support the Commissioner’s findings regarding his income and the cost of childcare and that, therefore, the Commissioner’s decision should not have been accepted by the Family Court.

(4) A timely-filed motion for reargument is the proper device for seeking reconsideration of a trial court’s findings of fact and conclusions of law.² In the Family Court, a motion for reargument must be filed within 10 days of the filing of the order sought to be reargued.³ If a motion for reargument is untimely filed, the Family Court has no jurisdiction to

² *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del. 1969).

³ Fam. Ct. Civ. Proc. R. 59(e).

consider the motion.⁴ Moreover, the untimely filed motion for reargument does not toll the time for filing an appeal in this Court.⁵

(5) In this case, Father's motion for reargument was properly denied by the Family Court on the ground that it was untimely filed and the Family Court, therefore, had no jurisdiction to consider it. Moreover, because Father's untimely motion for reargument did not toll the time to file his appeal from the Family Court's August 18, 2011 order in this Court, his November 7, 2011 appeal from that order is untimely and this Court lacks jurisdiction to consider it.⁶

NOW, THEREFORE, the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁴ *Howard v. Howard*, Del. Supr., No. 268, 2008, Berger, J. (Apr. 28, 2009) (citing *McDaniel v. DaimlerChrysler Corp.*, 860 A.2d 321, 323 (Del. 2004)).

⁵ *McDaniel v. DaimlerChrysler Corp.*, 860 A.2d 321, 323 (Del. 2004).

⁶ Supr. Ct. R. 6(a) (i).