

SUPREME COURT OF DELAWARE

Whitfield v. State

981 A.2d 1174 (Del. 2009) · No. No. 167, 2009 · Decided September 29, 2009

SUMMARY

The Delaware Supreme Court dismissed Whitfield’s appeal from the denial of his motion for a new trial because the notice of appeal was untimely and the untimely motion for reargument did not toll the appeal period. The Court affirmed the denial of Whitfield’s motion to reconsider because it was properly treated as an untimely motion for reargument.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Myron T. Steele, Chief Justice; Holland, Justice; Ridgely, Justice
JURISDICTION	Delaware
DECIDED	September 29, 2009
DOCKET	No. 167, 2009
DISPOSITION	other
PROCEDURAL POSTURE	Whitfield appealed the Superior Court's denial of his motion for new trial and its denial of his motion to reconsider, which the Superior Court treated as an untimely motion for reargument.
PRECEDENTIAL VALUE	Published per curiam order of the Supreme Court of Delaware; precedential value is not otherwise specified in the supplied text.
PARTIES	Mustafa Whitfield v. State of Delaware

TOPICS

- appellate jurisdiction
- appellate procedure
- final judgment rule
- criminal procedure
- post-conviction relief

PRACTICE AREAS

- criminal appellate procedure
- post-conviction procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court of Delaware had jurisdiction to review the February 23, 2009 order denying Whitfield's motion for new trial when the notice of appeal was filed on March 26, 2009.

2. Whether the Superior Court properly treated Whitfield's motion to reconsider as a motion for reargument and denied it as untimely.
3. Whether an untimely motion for reargument tolls the jurisdictional period for filing a notice of appeal.

HOLDINGS

1. The Superior Court properly characterized Whitfield's motion to reconsider as a motion for reargument, and because it was filed more than five days after the order sought to be reargued, the Superior Court had no authority to consider it.
2. An untimely motion for reargument did not toll the jurisdictional period for filing a notice of appeal.
3. The Supreme Court lacked jurisdiction to consider Whitfield's appeal from the February 23, 2009 order because the notice of appeal was filed one day after the jurisdictional deadline.

KEY QUOTATIONS

“The Superior Court has no authority to consider an untimely motion for reargument.”

“Whitfield's untimely motion for reargument also did not toll the jurisdictional time period for filing a notice of appeal.”

FACTUAL BACKGROUND

Whitfield was convicted of several offenses in February 2004. After prior direct-appeal and postconviction proceedings, he filed a motion for new trial on February 14, 2009. The Superior Court denied that motion on February 23, 2009, and later denied his March 13 motion to reconsider after treating it as a motion for reargument filed outside the applicable five-day period.

PROCEDURAL HISTORY

Whitfield was convicted in February 2004, and the Supreme Court of Delaware affirmed his convictions on direct appeal. The Supreme Court later affirmed the denial of his postconviction-relief motion. Whitfield filed a motion for new trial on February 14, 2009; after its denial, he filed a motion to reconsider on March 13, 2009. The Superior Court treated that filing as a motion for reargument and denied it as untimely. The Supreme Court dismissed the appeal from the February 23 order as untimely and affirmed the March 17 order.

DISPOSITION

other

CASES CITED

- Whitfield v. State, 867 A.2d 168 (Del. 2004)
- Whitfield v. State, 2005 WL 3439710 (Del. Supr.)
- Preform Bldg. Components, Inc. v. Edwards, 280 A.2d 697, 698 (Del. 1971)
- Brooks v. State, 2008 WL 5250269 (Del. Supr.)

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

OPINION

PER CURIAM.

MUSTAFA WHITFIELD, Defendant Below, Appellant, v. STATE OF DELAWARE, Plaintiff Below, Appellee. No. 167, 2009. Supreme Court of Delaware. Submitted: July 10, 2009. Decided: September 29, 2009. Before STEELE, Chief Justice, HOLLAND and RIDGELY, Justices ORDER Myron T. Steele, Chief Justice This 29th day of September 2009, upon consideration of the briefs of the parties, the Superior Court record, and the appellant's notice of appeal filed on March 26, 2009, it appears to the Court that: (1) On March 26, 2009, the appellant, Mustafa Whitfield, filed an appeal from the Superior Court's February 23, 2009 denial of his motion for new trial and March 17, 2009 denial of his "motion to reconsider."

The Court has concluded that it has no jurisdiction to consider the appeal from the February 23, 2009 order, and that the appeal from the March 17, 2009 order is without merit. (2) Whitfield was convicted in February 2004 of several offenses.

On direct appeal, this Court affirmed Whitfield's convictions.[1] In 2005, the Court affirmed the Superior Court's denial of Whitfield's motion for postconviction relief.[2] (3) On February 14, 2009, Whitfield filed a motion for new trial.

The Superior Court denied the motion by order dated and docketed on February 23, 2009. (4) On March 13, 2009, Whitfield filed a motion asking that the Superior Court "reconsider" the February 23, 2009 decision. By order dated March 17, 2009, the Superior Court considered the "motion to reconsider" as a motion for reargument and denied the motion as untimely.

This appeal followed. (5) Superior Court procedural rules provide that a motion for reargument must be filed within five days of the filing of the order that is sought to be reargued.[3] The Superior Court has no authority to consider an untimely motion for reargument.[4] (6) The Court has reviewed Whitfield's "motion to reconsider." It is clear to the Court that the Superior Court properly characterized the motion as one for reargument of the February 23, 2009 order.

As such, the motion had to be filed on or before March 2, 2009, i.e., within five days of the February 23, 2009 order. Because Whitfield did not file the motion until March 13, 2009, the Superior Court had no authority to consider it.

(7) Whitfield's untimely motion for reargument also did not toll the jurisdictional time period for filing a notice of appeal.[5] Thus, Whitfield's appeal of the February 23, 2009 order had to be filed on or before March 25, 2009.[6] Because Whitfield did not file the appeal until March 26, 2009, the Court has no jurisdiction to consider it.

(8) Although the Court does not have jurisdiction to consider Whitfield's appeal of the February 23, 2009 order denying his motion for new trial, the Court does have jurisdiction to consider Whitfield's appeal from the March 17, 2009 order denying his "motion to reconsider."

In that respect, however, the Court concludes that the appeal is unavailing in view of the Superior Court's proper denial of Whitfield's "motion to reconsider" as an untimely motion for reargument. NOW, THEREFORE, IT IS ORDERED that Whitfield's appeal from the Superior Court's order of February 23, 2009 is DISMISSED. IT IS FURTHER ORDERED that the Superior Court's order of March 17, 2009 is AFFIRMED.

NOTES [1] Whitfield v. State, 867 A.2d 168 (Del. 2004). [2] Whitfield v. State, 2005 WL 3439710 (Del. Supr.). [3] See Del. Super. Ct. Crim. R. 45(a) (excluding Saturdays, Sundays and legal holidays). Del. Super. Ct. Civ. R. 59(e); Del. Super. Ct. Crim. R. 57(d).

[4] Preform Bldg. Components, Inc. v. Edwards, 280 A.2d 697, 698 (Del. 1971). [5] Brooks v. State, 2008 WL 5250269 (Del. Supr.) (citing McDaniel v. DaimlerChrysler Corp., 860 A.2d 321, 323 (Del. 2004)). [6] See Del. Supr. Ct. R. 6(a) (providing for thirty-day appeal period).