

VT SUPERIOR COURT
STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
Docket No. 406-6-14 Wncv

Craig M. Balistreri
Plaintiff-Appellee

2014 DEC -2 P 1:57

on appeal from
Docket No. 523-12-13 Wnsc

v.

FILED

J. Guy Isabelle
Defendant-Appellant

ENTRY

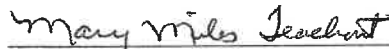
On September 12, 2014, this court affirmed a small claims judgment in favor Plaintiff-Appellee Craig M. Balistreri. On October 6, 2014, Defendant-Appellant J. Guy Isabelle filed a motion seeking permission to appeal to the Supreme Court.

The Supreme Court has discretion to permit or deny further appeal from a Civil Division judgment in the appeal of a small claims case. 12 V.S.A. § 5538; V.R.S.C.P. 10(e). However, such a request must be filed with the Civil Division within 10 days of the Civil Division's judgment. V.R.S.C.P. 10(e). If a timely request is not so filed, the judgment becomes final and there is no further appeal. *Id.*

Mr. Isabelle concedes that his request to appeal was not timely filed and he did not request an extension of time before the 10-day period elapsed. Assuming that the excusable neglect provision of either V.R.A.P. 4(d)(1)(B) or V.R.C.P. 6(b)(2) otherwise applies to late filings under V.R.S.C.P. 10(e), there is no excusable neglect here. Mr. Isabelle simply notes that he was ignorant of the need to request further appeal within 10 days. Mere ignorance of a clear procedural rule is not excusable neglect. See generally *In re Town of Killington*, 2003 VT 87A, 176 Vt. 60 (discussing excusable neglect in detail).

Mr. Isabelle's motion seeking permission to appeal to the Supreme Court is *denied*.

Dated this 1st day of December 2014.


Hon. Mary Miles Teachout
Superior Court Judge