

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF: LAWRENCE §	
P. GILLEN, SR., DECEASED. §	No. 548, 2016
	§
LAWRENCE GILLEN, JR., §	Court Below—Court of Chancery
	§ of the State of Delaware
Respondent Below, §	
Appellant, §	C.A. No. 11003
	§
v. §	
	§
VALERIE WOJCIK and ROBERT §	
GILLEN, §	
	§
Petitioners Below, §	
Appellees. §	

Submitted: April 21, 2017

Decided: June 29, 2017

Before **STRINE**, Chief Justice; **VALIHURA** and **SEITZ**, Justices.

ORDER

This 29th day of June 2017, after consideration of the briefs and the record, it appears to the Court that:

(1) Following a July 27, 2016 evidentiary hearing in an estate action, a Master in the Court of Chancery issued an oral draft report from the bench. The respondent, Lawrence P. Gillen, Jr., filed a notice of exceptions to the Master's report. The respondent did not file an opening brief within twenty days of filing the notice of exceptions as required by Court of Chancery Rule 144(d)(1).

(2) On August 30, 2016, the petitioners, Valerie Wojcik and Robert Gillen, filed a motion to dismiss the notice of exceptions. The respondent did not respond to the motion to dismiss. By order dated September 20, 2016, the Master granted the motion and dismissed the notice of exceptions. Thereafter, by order dated October 13, 2016, the Court of Chancery approved and adopted the Master's July 27 report.

(3) Despite his procedural default below, the respondent filed this appeal from the Court of Chancery's October 13 order and seeks to have us address the merits. We will not. As the petitioners argue, the respondent's failure to file an opening brief in the Court of Chancery properly led the Court of Chancery to dismiss the respondent's exceptions and also bars the respondent's claims on appeal.*

NOW, THEREFORE, IT IS ORDERED that the judgment of the Court of Chancery is AFFIRMED.

BY THE COURT:

/s/ Leo E. Strine, Jr. _____

Chief Justice

* *Sutor-Banks v. Moffett*, 2013 WL 4538570 (Del. Aug. 22, 2013) (citing *In re Estate of Kostyshyn*, 2012 WL 5508435 (Del. Nov. 13, 2012) citing *Matter of Marta*, 672 A.2d 984, 986 (Del. 1996))).