

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN C. DAVIS,	§	
	§	No. 441, 2006
Respondent Below,	§	
Appellant,	§	Court Below--Family Court of
	§	the State of Delaware in and
v.	§	for New Castle County
	§	
DCSE/SHARON BRANTON-DAVIS	§	
	§	File No. CN92-10772
Petitioner Below,	§	Pet. No. 06-02282
Appellee.	§	

**ORDER**

This 27<sup>th</sup> day of September 2006, it appears to the Court that:

(1) The appellant filed a notice of appeal from a Family Court Commissioner's support modification order dated July 18, 2006. On August 25, 2006, the Clerk issued a notice directing that the appellant show cause why the appeal should not be dismissed for this Court's lack of jurisdiction to consider an appeal directly from a Commissioner's order.<sup>1</sup> On September 1, 2006, the appellee filed a motion to dismiss the appeal for lack of jurisdiction.

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<sup>1</sup>See Del. Code Ann. tit. 10, § 915(d)(1) (1999 & Supp. 2004) (providing that a party's appeal from a commissioner's final order is to a judge of the Family Court in the first instance); Del. Fam. Ct. Civ. R. 53.1(b)(2006) (providing that an appeal to a judge must be filed within ten days of the commissioner's order); *Redden v. McGill*, 549 A.2d 695, 698 (Del. 1988) (holding that Supreme Court's appellate jurisdiction over Family Court proceedings is limited to decisions of judges).

(2) The appellant did not respond either to the Clerk's notice to show cause or to the appellee's motion to dismiss.<sup>2</sup> The appellant's failure to respond to the notice or motion is deemed to be his consent to the dismissal of this appeal.<sup>3</sup>

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 30(b),(c), 29(b) and 3(b)(2), that the appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>2</sup>Also, the appellant did not file a reply as directed by the Clerk's letter of September 7, 2006, to the appellee's answer opposing the appellant's motion to proceed in forma pauperis.

<sup>3</sup>See Del. Supr. Ct. R. 30(b),(c) (2006) (providing that a non-responding party shall be deemed to have consented to the relief sought by the movant); Del. Supr. Ct. R. 29(b) (providing that a party's failure to respond to a notice to show cause shall be deemed to be consent to dismissal pursuant to Rule 3(b)(2)); Del. Supr. Ct. R. 3(b)(2) (providing that an individual Justice may issue an order terminating a case when a party has failed to timely respond to another party's motion to dismiss or to this Court's notice to show cause why the appeal should not be dismissed).