

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ERIC T. BROTHERS,	§	
	§	No. 195, 2006
Defendant Below-	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware in and
	§	for New Castle County
v.	§	
	§	
STATE OF DELAWARE	§	ID# 0107014548
	§	ID# 0505019917
Plaintiff Below,	§	
Appellee.	§	
	§	

Submitted: April 30, 2007
Decided: May 10, 2007

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

ORDER

This 10th day of May 2007, it appears to the Court that:

(1) Brothers filed this appeal from the Superior Court's denial of his motion to vacate an illegal sentence. On December 28, 2006, this Court remanded the matter because the trial judge was not presented with evidence showing that Brothers failed to appear at his second VOP hearing because he was incarcerated and because the trial court lacked jurisdiction.¹ On remand, the Superior Court vacated Brothers' violation of probation.

¹ *Brothers v. State*, Del. Supr., No. 195, 2006, Ridgely, J. (Dec. 28, 2006).

(2) The Court issued a Rule to Show Cause why the appeal should not be dismissed as moot. Citing Supreme Court Rule 26(c), Counsel continues to claim that because he remains unable to contact his client, he cannot stipulate to a dismissal.

(3) The sole issue in this appeal is whether the violation of probation sentence should be vacated because Brothers was previously sentenced for the same violation. Because the Superior Court has vacated the sentence, the matter is moot.

NOW, THEREFORE, IT IS ORDERED that this appeal is dismissed as MOOT.

BY THE COURT:

/s/Henry duPont Ridgely
Justice