

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID J. BUCHANAN,	§
	§ No. 324, 2008
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ C.A. No. 08M-05-027
	§
Respondent Below-	§
Appellee.	§

Submitted: October 9, 2008
Decided: October 20, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 20th day of October 2008, it appears to the Court that:

(1) The petitioner-appellant, David J. Buchanan, has filed an appeal from the Superior Court's May 30, 2008 order denying his petition for a writ of habeas corpus. By letter dated September 16, 2008, the Clerk notified Buchanan that he had failed to file his opening brief by the due date of September 15, 2008, and had not requested an extension of time in which to do so, as required by Supreme Court Rule 15(b). The letter further informed Buchanan that, if the brief were not filed within seven days of the date of the letter, the Court would consider dismissing his appeal.

(2) Having received no response from Buchanan, the Clerk, on September 26, 2008, issued a notice to show cause why Buchanan's appeal should not be dismissed pursuant to Rule 29(b) for his failure to diligently prosecute the appeal by not filing his opening brief and appendix. On October 9, 2008, Buchanan filed his response to the notice to show cause. In his response, Buchanan reiterates arguments he has made previously in matters before this Court---namely, that his criminal prosecution in the Superior Court and his subsequent incarceration constitute a violation of his due process rights. However, Buchanan offers no explanation for why he has not filed his opening brief in a timely manner.

(3) We conclude that Buchanan has failed to show cause why his appeal should not be dismissed due to his failure to diligently prosecute the appeal by not filing his opening brief and appendix.

NOW, THEREFORE, IT IS ORDERED that this appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice