

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JACK CLOUD,	§	
	§	No. 5, 2000
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware,
v.	§	in and for New Castle County
	§	Cr.A. Nos. IN76-12-0125 and
STATE OF DELAWARE,	§	IN76-12-0859
	§	
Plaintiff Below,	§	
Appellee.	§	Cr. ID No. 82003155

Submitted: September 1, 2000  
Decided: September 25, 2000

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

O R D E R

This 25<sup>th</sup> day of September 2000, it appears to the Court that:

(1) The Clerk issued a notice dated June 29, 2000 directing the appellant, Jack Cloud, to show cause why this appeal should not be dismissed for his failure to prosecute the appeal diligently. Cloud filed a response on July 6, 2000. Since that time, Cloud has been given several extensions of time to retain counsel and to pay for the costs of the transcripts necessary to prosecute this appeal. Cloud has done neither. Accordingly, we conclude that this matter must be dismissed for Cloud's failure to prosecute.

(2) The record reflects that a notice of appeal was filed on Cloud's behalf by appointed counsel on January 4, 2000. The matter was remanded to the

Superior Court on February 17, 2000 for a fact-finding hearing to determine Cloud's financial ability to pay for the costs of the transcript needed to prosecute the appeal and to determine whether the appellant was competent to dismiss his counsel and represent himself on appeal, as he requested to do. The Superior Court held a hearing and determined that Cloud had the financial ability to pay for counsel and the transcript costs. The Superior Court further determined that Cloud was competent to waive his right to counsel and proceed pro se on appeal.

(3) The matter was returned from remand on March 22, 2000. Cloud's appointed counsel, with Cloud's consent, was permitted to withdraw. Since that time, Cloud has been granted five separate extensions of time to pay for the costs of the transcript. These extensions were granted in part based on Cloud's representations that he was in the process of retaining counsel who would help him make the necessary arrangements to have the transcripts prepared.

(4) By letter dated July 13, 2000, the Court informed Cloud he must pay the transcript costs to the court reporter's office by August 1, 2000. If the transcript costs were not paid by that date the Court would assume that dismissal of this appeal would be unopposed. Cloud further was advised that the notice to show cause would be held in abeyance. On July 27, 2000, Cloud filed a letter dated July 25, 2000, requesting an extension to obtain an attorney. Cloud stated

that once an attorney was hired that the attorney could then obtain the transcripts.

On July 28, 2000, Cloud was informed that he was granted yet another extension of time until September 1, 2000 to retain an attorney. Once again the Court advised Cloud that if an attorney did not enter an appearance by September 1, 2000, the Court would assume Cloud did not oppose the dismissal of this appeal.

On August 30, 2000, Cloud filed a letter dated August 25, 2000, which again stated that he was unable to hire an attorney, however, he wished to reserve his right to appeal.

(5) Despite numerous opportunities to do so, Cloud has failed to comply with the Court's notice to show cause and subsequent letter directives within the required time periods. Therefore, the Court has no choice but to dismiss this appeal for Cloud's failure to prosecute. Given Cloud's failure to comply with the Court's directives, dismissal of the appeal is deemed to be unopposed. Supr. Ct. R. 3; Supr. Ct. R. 30(c).

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

BY THE COURT:

s/Joseph T. Walsh  
Justice

