

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIE MELLS,	§
	§
Defendant Below-	§ No. 33, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. N99-05-0427
Plaintiff Below-	§
Appellee.	§

Submitted: April 17, 2000

Decided: May 30, 2000

Before **VEASEY**, Chief Justice, **HOLLAND** and **HARTNETT**, Justices

ORDER

This 30th day of May 2000, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Willie Mells, filed this appeal from the January 10, 2000 order of the Superior Court dismissing his appeal from a judgment of the Court of Common Pleas. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) On March 29, 1999, a Court of Common Pleas jury found Mells guilty of misdemeanor theft by false pretenses. On April 27, 1999, the Court of Common Pleas sentenced Mells to 3 months of incarceration, to be suspended for 15 months of Level II probation. Mells appealed his conviction and sentence

to the Superior Court. Three times the Superior Court denied Mells' requests for a transcript of the Court of Common Pleas trial at State expense. In its third order, the Superior Court stated that, if briefing revealed a need for the transcript, it would be ordered. The Superior Court then issued a brief schedule. In response to a delinquent brief notice from the Superior Court, Mells requested an extension on the ground that he was waiting for the transcript of the Court of Common Pleas trial.

(3) On January 10, 2000, the Superior Court dismissed Mells' appeal, citing Mells' failure to abide by its orders and the lack of any substantive basis for the appeal. Following entry of the order dismissing the appeal, Mells requested the Superior Court to drop the charges against him because he had not obtained a copy of the transcript. On January 24, 2000, the Superior Court issued another order reiterating that the dismissal was final and the case was closed. In light of Mells' failure to provide the Superior Court with an explanation as to why his opening brief on appeal was not timely filed and his continuing requests for the Court of Common Pleas transcript in spite of the Superior Court's rulings on the issue, it was not an abuse of discretion for the Superior Court to dismiss Mells' appeal.¹

¹*Nemeth v. Schweizer*, Del. Supr., No. 219, 1987, Horsey, J., 1987 WL 3283 (Jan. 6, 1988) (ORDER) (citing *Chavin v. Cope*, Del. Supr., 243 A.2d 694 (1968)).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

s/Maurice A. Hartnett, III

Justice