

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROSCOE D. MARTIN,	§
	§ No. 407, 2005
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
STATE OF DELAWARE,	§ of the State of Delaware
	§ in and for New Castle County
	§ Cr. ID No. 9912002366
Plaintiff Below-	§
Appellee.	§

**O R D E R**

This 21st day of March 2006, it appears to the Court that:

(1) On December 5, 2005, the Clerk issued a notice to show cause why this appeal should not be dismissed, pursuant to Supreme Court Rule 29(b), for the appellant's failure to diligently prosecute the appeal by not filing his opening brief and appendix. The notice to show cause was sent via certified mail to the Delaware Correctional Center, Smyrna, Delaware, which was the address given by the appellant on his notice of appeal.

(2) On December 14, 2006, the notice to show cause was returned to the Clerk's office with the notation "Inmate Unknown." The Clerk resent the notice via first class mail. On December 21, 2005, the notice was returned to the Clerk's Office stamped "Attempted Not Known." The Clerk then contacted the Delaware Department of Correction and obtained an

updated address for the appellant at 119 Hartly Drive, Hartly, Delaware.

The notice was sent to that address via certified and first class mail.

(3) On January 18, 2006, the notice was returned to the Clerk's Office marked "Unclaimed" and was re-sent via first class mail. On January 26, 2006, the notice again was returned to the Clerk's Office, this time with the notation "No Such Number/Street."

(4) Because the appellant has failed to diligently prosecute his appeal by not filing his opening brief and appendix and has failed to provide the Court with his latest address, dismissal of this action is deemed to be unopposed.<sup>1</sup>

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

BY THE COURT:

/s/Henry duPont Ridgely  
Justice

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<sup>1</sup> Supr. Ct. R. 3(b) (2); Supr. Ct. R. 29(b).