

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES E. LYMASTER, SR.,	§	
	§	No. 179, 2006
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of
	§	the State of Delaware in and for
v.	§	Sussex County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0205013660
Appellee.	§	

ORDER

This 5th day of October 2006, it appears to the Court that:

(1) The appellant's opening brief and appendix were due to be filed on or before August 14, 2006. The appellant, James E. Lymaster, Sr., did not file the opening brief and appendix.

(2) On August 24, 2006, the Clerk of the Court issued a notice directing that Lymaster show cause why this appeal should not be dismissed for his failure to diligently prosecute the appeal. Lymaster did not respond to the notice to show cause. The dismissal of the appeal is deemed to be unopposed.

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

BY THE COURT:

/s/ Randy J. Holland
Justice