

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDWARD JASON SELBY,	§	
	§	No. 450, 2006
Petitioner Below,	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County.
	§	
CVOP WARDEN VINCE BIANCO,	§	
	§	C.A. No. 06M-06-038
Respondent Below,	§	Cr. ID No. 0501003723
Appellee.	§	

ORDER

This 5th day of October 2006, it appears to the Court that the Clerk's notice dated August 24, 2006, directed that the appellant show cause¹ why this appeal² should not be dismissed as untimely filed.³ The appellant did

¹ See Del. Supr. Ct. R. 29(b) (2006) (governing procedure for involuntary dismissal upon notice of the Clerk).

² Although the notice of appeal filed on August 24, 2006, purports to appeal the Superior Court's November 2, 2005 denial of the appellant's petition for a writ of habeas corpus, the docket reflects that the habeas corpus petition was denied by an order docketed on July 5, 2006. *Selby v. McGuigan*, Del. Super. Ct., C.A. No. 06M-06-038, Slights, J. (July 5, 2006). It appears that the appellant, on November 2, 2005, was adjudged guilty of violation of probation (VOP) and was sentenced. *Selby v. State*, Del. Super. Ct., Cr. ID No. 0501003723, Slights, J. (Nov. 2, 2005).

³ Whether the appellant intended to appeal the July 5, 2006 denial of habeas corpus relief or the November 2, 2005 VOP conviction and sentence, the notice of appeal filed on August 24, 2006, appeared to be untimely filed. See Del. Supr. Ct. R. 6(a) (2006) (providing that notice of appeal must be filed within thirty days).

not respond to the notice to show cause.⁴ The dismissal of the appeal is deemed to be unopposed.⁵

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

⁴ See Del. Supr. Ct. R. 29(b) (2006) (providing that appellant must respond to notice to show cause within ten days).

⁵ *Id.* (providing that appellant's failure to respond to notice of dismissal is deemed to be consent to dismissal). See also Del. Supr. Ct. R. 3(b)(2) (2006) (providing for dismissal by single Justice when appellant's failure to respond to notice to show cause is deemed to be consent to dismissal).