

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARY BARNES and JACK  
WRIGHT, JR.,

§  
§ No. 41, 2006

Respondents Below-  
Appellants,

§  
§  
§ Court Below—Family Court  
§ of the State of Delaware

v.

§ in and for Kent County  
§ File No. 05-04-1TR

DIVISION OF FAMILY  
SERVICES,

§ Petition No. 05-12312

Petitioner Below-  
Appellee,

§

§

§

§

§

and

§

§

COURT APPOINTED SPECIAL  
ADVOCATE,

§

§

§

Appellee.

§

Submitted: October 2, 2006  
Decided: November 22, 2006

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

**ORDER**<sup>1</sup>

This 22<sup>nd</sup> day of November 2006, it appears to the Court that:

(1) This is an appeal from the Family Court’s termination of the parental rights of Mary Barnes (“Mother”) with respect to her two minor children, David and Steven, and Jack Wright, Jr. (“Father”) with respect to

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<sup>1</sup> The Court has sua sponte assigned pseudonyms to the parties and their children. Supr. Ct. R. 7(d).

his minor child, David.<sup>2</sup> The record reflects that this appeal was filed in January 2006. In May 2006, the Family Court granted Father's motion for a transcript of the hearing for purposes of the appeal. In July 2006, this Court granted Mother's motion for a month's extension to file her opening brief. On September 15, 2006, having received no opening brief, the Clerk sent to Father and Mother a notice to show cause why the appeal should not be dismissed pursuant to Supreme Court Rule 29(b) for their failure to diligently prosecute the appeal by not filing an opening brief and appendix. The docket reflects that Father and Mother both received the notice to show cause.

(2) On September 26, 2006, Mother responded to the notice to show cause.<sup>3</sup> In her response, she states that she was trying to make decisions about her home and job and lost track of time. Mother asks for "another chance." According to the Clerk's Office, Mother telephoned on October 10, 2006 and asked for assistance in filing a motion for another extension of time for the filing of the opening brief. The Clerk's Office sent Mother a form for a Rule 15(b) motion to her last-known address.

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<sup>2</sup> Father is the biological father of David. The biological father of Steven voluntarily relinquished his parental rights at the time of the Family Court hearing.

<sup>3</sup> As of the date of this Order, Father has filed no response.

(3) On November 1, 2006, Mother telephoned the Clerk's Office to request another form for a Rule 15(b) motion. Despite Mother's representation that she would come to the Clerk's Office to pick up the form, she has not done so as of the date of this Order. No further communication from either Mother or Father has been received by the Clerk's Office. In light of Mother and Father's failure to diligently prosecute their appeal by filing their opening brief and appendix, the dismissal of this action is deemed to be unopposed.<sup>4</sup>

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

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>4</sup> Supr. Ct. R. 3(b) (2) and 29(b).