IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARRYL S. WARD,[1]	§	
	§	No. 497, 2012
Petitioner Below-	§	
Appellant,	§	
	§	Court Below—Family Court
v.	§	of the State of Delaware
	§	in and for New Castle County
AMY J. NAIR,	§	Petition No. 11-27289
	§	File No. CN09-06088
Respondent Below-	§	
Appellee.	§	

Submitted: November 15, 2012
Decided: December 10, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

O R D E R

This 10th day of December 2012, it appears to the Court that:

(1) The appellant filed a notice of appeal from the Family Court's August 17, 2012 order denying his petition for modification of custody. His notice of appeal designates the transcript from the Family Court's May 25, 2012 hearing on his petition to modify custody.

(2) On November 8, 2012, the Court issued a notice to the appellant to show cause why this appeal should not be dismissed for his failure to pay the Family Court filing fee and transcript costs. On November

[1] The Court *sua sponte* assigned pseudonyms to the parties by Order dated September 11, 2012. Supr. Ct. R. 7(d).

15, 2012, the appellant filed his response to the notice to show cause. In his response, the appellant states that he is unable to pay the Family Court filing fee and the transcript costs. He states that his appeal has merit and that the Family Court erred by not awarding him equal shared residency so that he can spend more time with his children.

(3) The record reflects that, on September 12, 2012, the appellant was notified by letter of the amount of the filing fee and the cost of the transcript. On October 16, 2012, the Family Court denied the appellant's request to waive the costs. On October 23, 2012, the Family Court gave the appellant an additional 15 days to pay the costs. On October 24, 2012, this Court informed the appellant that he should take immediate steps to reapply for an extension or pay the costs no later than November 7, 2012. Following notification by the Family Court that the appellant had failed to pay the filing fee or transcript costs, the notice to show cause issued.

(4) This Court has the authority to dismiss an appeal for failure of an appellant to diligently prosecute his appeal.[2] The record in this case plainly reflects that, despite being given the opportunity to pay the required fees, the appellant has not done so. In light of the appellant's failure to

[2] *Davis v. Thomas*, Del. Supr., No. 195, 2009, Holland, J. (Aug. 27, 2009) (citing Supr. Ct. R. 29(b)).

diligently prosecute his appeal, we conclude that his appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice