

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRUCE BANTHER,	§
	§ No. 486, 2013
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. No. 9705000270
Plaintiff Below-	§
Appellee.	§

Submitted: June 16, 2014

Decided: June 20, 2014

Amended: June 23, 2014

Before **STRINE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This 23rd day of June 2014, it appears to the Court that:

(1) On September 16, 2013, the appellant, Bruce Banther, filed a notice of appeal from an August 15, 2013 Superior Court order regarding property seized from him in 1997 and not introduced into evidence at his trials. For the reasons that follow, the Court concludes that the appeal must be dismissed.

(2) The Supreme Court docket reflects this appeal has been pending since September 2013. Banther's opening brief and appendix were originally due on or before October 31, 2013. On October 30, 2013, the Court granted Banther's request for an extension of time and ordered that he file his opening brief and

appendix on or before December 30, 2013. On December 27, 2013, the Court granted Banther's second request for an extension of time and ordered that he file his opening brief and appendix on or before January 31, 2014.

(3) On January 29, 2014, Banther moved to stay the proceedings until he could obtain certain materials for his opening brief and appendix. On March 14, 2014, the Court denied the motion to stay and ordered that Banther file his opening brief and appendix on or before April 15, 2014.

(4) On April 21, 2014, the Chief Deputy Clerk sent a notice of brief delinquency to Banner. On April 29, 2014, the Chief Deputy Clerk issued a notice to Banther to show cause why his appeal should not be dismissed for his failure to diligently prosecute the appeal by not filing his opening brief and appendix in this matter. On April 30, 2014, Banther submitted a letter stating he intended to file his opening brief, but was still waiting to receive certain materials. On May 2, 2014, the Court ordered that Banther's opening brief and appendix were due on May 12, 2014 and that there would be no further extensions.

(5) On May 13, 2014, Banther submitted a letter stating that his opening brief would be late because he had to rewrite his brief in light of new materials he had just received. The Clerk issued a brief delinquency notice on May 19, 2014 and a notice to show cause on May 29, 2014. In his response to the notice to show cause, Banther complains that property seized from him in 1997 has not been

returned to him and that he does not know how to file a brief under the circumstances.

(6) This Court may dismiss an appeal if an appellant fails to diligently prosecute the appeal.¹ It is the appellant's responsibility to prepare an opening brief.² The record reflects that, despite multiple extensions, the May 19, 2014 brief delinquency notice, and the May 29, 2014 notice to show cause, Banner has not filed an opening brief and appendix. In light of Banther's failure to diligently prosecute his appeal, the appeal must be dismissed.

NOW, THEREFORE, IT IS HEREBY ORDERED, under Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Leo E. Strine, Jr.

Chief Justice

¹ Supr. Ct. R. 29(b).

² Supr. Ct. R. 15(a)(i).