

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PETER KOSTYSHYN,	§
	§
Defendant Below,	§ No. 309, 2023
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
NEW CASTLE COUNTY,	§ C.A. No. N22J-02871
	§
Plaintiff Below	§
Appellee.	§

Submitted: November 6, 2023

Decided: November 7, 2023

Before **VALIHURA, TRAYNOR, GRIFFITHS**, Justices.

ORDER

After consideration of the notice to show cause and the appellant's response, it appears to the Court that:

(1) The appellant, Peter Kostyshyn, filed this appeal from a monition action in the Superior Court. On August 30, 2023 and September 26, 2023, the Clerk's office sent letters advising Kostyshyn to pay the filing fee or file a motion to proceed *in forma pauperis*, first by September 14, 2023 and then by October 10, 2023. The Clerk's office warned Kostyshyn that if he failed to do so a notice to show cause would issue. The Clerk's office sent the letters to the addresses provided by Kostyshyn and his sister, Patricia Kostyshyn, who had filed the same documents.

(2) On September 27, 2023, the Deputy Prothonotary submitted a letter stating that Kostyshyn had not paid the Superior Court’s appeal preparation fee. The Clerk’s office sent Kostyshyn a letter withdrawing the record deadline and directing him to pay the Superior Court appeal preparation fee by October 10, 2023, or a notice to show cause would issue. Kostyshyn did not pay this Court’s filing fee or the Superior Court’s appeal preparation fee. He also failed to file a motion to proceed *in forma pauperis*.

(3) On October 11, 2023 and October 12, 2023, the Clerk’s office issued notices, by certified mail, directing Kostyshyn to show cause why this appeal should not be dismissed for his failure to pay this Court’s filing fee and the Superior Court’s appeal preparation fee. Postal records show that both notices to show cause were returned with the notation “return to sender, vacant, unable to forward.” On October 23, 2023, the Clerk’s office reissued the notices to show cause by first class mail. The Court’s correspondence and notices to show cause were sent to the addresses that the Kostyshyns provided, and continue to provide, to this Court.

(4) On October 25, 2023, November 3, 2023, and November 6, 2023 Kostyshyn filed documents that are deemed to be his response to the notice to show cause. The documents do not address his failure to pay this Court’s filing fee or the Superior Court’s appeal preparation fee. In light of Kostyshyn’s failure to pay those fees or file a motion to proceed *in forma pauperis*, this appeal must be dismissed.

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

BY THE COURT:

/s/ Gary F. Traynor
Justice