

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT CLERK'S OFFICE  
John Adams Courthouse  
One Pemberton Square, Suite 1200  
Boston, Massachusetts 02108-1705  
(617) 725-8106; mass.gov/courts/appealscourt

August 11, 2014

Michael G. Elberry, Pro Se  
120 Old Pleasant Street #7  
Lee, MA 01238

RE: No. 2014-P-0969

**COMMONWEALTH**  
**vs.**  
**MICHAEL G. ELBERRY**

**NOTICE PRECEDING DISMISSAL**

Dear Counsel:

In accordance with the Standing Order Governing Dismissals for Lack of Prosecution (copy enclosed), you are hereby given notice that the above-referenced appeal shall be dismissed for lack of prosecution for the following reason:

Brief/appendix not received or status report not filed.

Very truly yours,

Joseph Stanton, Clerk

To: Jane A. Sullivan, A.D.A.  
Michael G. Elberry

# Appeals Court Standing Order Concerning the Dismissal of Appeals and Reports in all Cases for Lack of Prosecution ("Standing Order 17A")

It is ORDERED that whenever the Clerk of this court (clerk) shall not have received the brief and appendix of an appellant (including in that term a party treated as an appellant under Rule 5 of the Massachusetts Rules of Appellate Procedure [Rules]) within the time required or permitted by Rule 13(a), 18(a) and 19(a) (unless said time shall previously have been enlarged or unless, in the case of an appendix, the filing shall have been deferred or dispensed with under Rule 18[c] or [f]), the clerk shall send a copy of this order by first class mail to the attorney of record for such appellant (and to such appellant at his last known address in a criminal case or if he is not represented by such an attorney in a civil case) and to all other parties or to their attorneys of record, together with notice in writing that the appeal of such appellant or the report, as the case may be, will be dismissed as to him for lack of prosecution unless, within fourteen days of the date of such notice in a civil case or within thirty days of the date of such notice in a criminal case, the clerk shall receive (a) a motion by such appellant to enlarge to a date certain set forth therein the time for serving and filing such brief and appendix and (b) an affidavit of such appellant (or his attorney) which shall set forth all the facts which such appellant wishes to have considered by the single justice of this court, who will act on such motion in accordance with the provisions of Rule 15(b) and (c). If no such motion and affidavit are received by the clerk within such period, the clerk shall forthwith dismiss such appeal or report for lack of prosecution and shall note such dismissal on the docket. The clerk shall take like action whenever a particular appellant has failed to serve and file his brief or appendix (when an appendix is required) within an enlargement of time previously granted. The sending of every notice required by this order shall be noted on the docket. Unless a dismissal shall have been vacated by a single justice within fourteen days from the docketing thereof, the clerk shall notify the clerk of the trial court that the appeal or report has been dismissed as to the particular appellant for lack of prosecution. A dismissal of an appeal in a criminal case may be vacated by a panel of the justices after the expiration of said fourteen days upon a showing either (a) of the existence of a meritorious case or (b) that the defendant was deprived of his right of direct appeal as a result of an act or omission of counsel after the appeal had been entered in this court.

Amended effective October 1, 2008.