

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID J. BUCHANAN,	§
	§ No. 531, 2008
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0801031784
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 31, 2008
Decided: November 10, 2008

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

ORDER

This 10th day of November 2008, it appears to the Court that:

(1) On October 23, 2008, the Court received the appellant’s notice of appeal from the Superior Court’s October 7, 2008 letter and order striking his *pro se* motion for postconviction relief and request for transcript and advising the appellant that any future request for relief would be docketed only if it was submitted by the appellant’s appointed counsel.¹

¹ *In re Haskins*, 551 A.2d 65, 66-67 (Del. 1988) (A criminal defendant does not have the right to “hybrid” representation---that is, if counsel has been appointed for him and the court has not granted him the opportunity to participate in his own representation, only counsel is permitted to act on his behalf).

(2) On October 23, 2008, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why his appeal should not be dismissed based upon the Court's lack of jurisdiction to entertain an interlocutory appeal in a criminal matter.² The appellant submitted his response to the notice to show cause on October 31, 2008. In his response, the appellant argues that the appeal should not be dismissed because the Superior Court's order is a final order and, furthermore, his appeal has merit.

(3) Under the Delaware Constitution, only a final judgment may be reviewed by this Court in a criminal case.³ The order of the Superior Court striking the appellant's motion for postconviction relief and request for transcript is an interlocutory order and not a final criminal judgment.⁴ As such, the appellant's notice of appeal fails to invoke the jurisdiction of this Court and, therefore, must be dismissed.⁵

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

BY THE COURT:

/s/ Randy J. Holland
Justice

² Del. Const. art. IV, § 11(1) (b).

³ Id.; *State v. Cooley*, 430 A.2d 789, 791 (Del. 1981).

⁴ *Anderson v. State*, Del. Supr., No. 394, 2000, Holland, J. (Sept. 5, 2000).

⁵ *State v. Cooley*, 430 A.2d at 791.