

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRUCE CARR,	§	
	§	No. 418, 2013
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 82002234DI
Appellee.	§	

Submitted: August 14, 2013
Decided: September 5, 2013

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

O R D E R

This 5th day of September 2013, it appears to the Court that:

(1) Superior Court Criminal Rule 61(b)(1) requires the use of a “prescribed form” when filing a motion for postconviction relief.¹ Under Rule 61(c), “[i]f a motion does not substantially comply with the requirements of subdivision (b) . . . the prothonotary shall return [the motion] to the movant, if a judge of the court so directs.”²

(2) This appeal is from a July 25, 2013 “notice of noncompliance” that issued to the appellant under Rule 61(b)(1) and(c). Upon receipt of the appeal, the

¹ Del. Super. Ct. Crim. R. 61(b)(1).

² Del. Super. Ct. Crim. R. 61(c).

Clerk issued a notice directing the appellant to show cause why the appeal should not be dismissed based upon this Court’s lack of jurisdiction to entertain an interlocutory appeal in a criminal matter.³

(3) In his response to the notice to show cause, the appellant contends that the requirements of the “prescribed form” prevent him from raising a claim for postconviction relief so as to avoid the procedural bars of Rule 61(i). The appellant does not address the jurisdictional issue raised by the Clerk’s notice to show cause.

(4) Under the Delaware Constitution only a final judgment may be reviewed by the Court in a criminal case.⁴ The Court has no jurisdiction to entertain an appeal from an interlocutory order in a criminal case.⁵ In this case, the Superior Court’s July 25, 2013 “notice of noncompliance” is an interlocutory order in a criminal case and is not appealable.⁶

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

³ Del. Const. art. IV, § 11(1)(b).

⁴ *Id.*

⁵ *Gottlieb v. State*, 697 A.2d 400 (Del. 1997).

⁶ *See Bass v. State*, 1993 WL 61686 (Del. Feb. 9, 1993) (dismissing appeal from Rule 61 “notice of noncompliance” for lack of jurisdiction).