

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WAYNE D. DOWNING,	§
	§
Defendant Below-	§ No. 358, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0309016014
Plaintiff Below-	§
Appellee.	§

Submitted: August 17, 2005
Decided: September 8, 2005

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 8th day of September 2005, it appears to the Court that:

(1) On August 5, 2005, the Court received the defendant's notice of appeal from a Superior Court order dated July 15, 2005 denying the defendant's motion to withdraw his guilty plea. The defendant has not yet been sentenced on the criminal charges to which he pled guilty.

(2) Until the defendant is sentenced, the Superior Court's denial of his motion to withdraw his guilty plea is clearly an interlocutory ruling in this criminal matter.¹ Under the Delaware Constitution, this Court may only review a final

¹ See *Robinson v. State*, 704 A.2d 269, 271 (Del. 1998); DEL. SUPR. CT. R. 6(a)(ii).

judgment in a criminal matter.² Accordingly, this Court is without jurisdiction to review this criminal interlocutory appeal.

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

BY THE COURT:

Jack B. Jacobs
Justice

² DEL. CONST. art. IV, § 11(1)(b).