

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EUGENA C. ROACHE,	§
	§
Petitioner Below-	§ No. 459, 2005
Appellant,	§
	§
v.	§ Court Below—Family Court
	§ of the State of Delaware,
EUGENE LARKIN, JR.,	§ in and for New Castle County
	§ File No. CN97-11379
Respondent Below-	§
Appellee.	§

Submitted: October 7, 2005
Decided: October 31, 2005

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

ORDER

This 31st day of October 2005, it appears to the Court that:

(1) On September 28, 2005, this Court received the appellant's notice of appeal from Family Court orders dated August 26, August 30 and September 2, 2005. The Family Court's orders, respectively, denied appellant's emergency motion for temporary custody, motion for stay, and motion to recuse.

(2) On September 30, 2005, the Clerk of this Court issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed for her failure to comply with Supreme Court Rule 42 when taking an appeal from apparent interlocutory orders. In her response, filed October 7, 2005, appellant states that she wishes to withdraw her

appeal from the interlocutory order dated August 26, 2005 but that she wishes to continue with an appeal on the other decisions.

(3) Absent compliance with Rule 42, the jurisdiction of this Court is limited to the review of a final judgment of a trial court.¹ Regardless of how it is characterized by the trial judge, an order is deemed final and appealable to this Court only if the trial court has clearly declared its intention that the order be the court's "final act" in the case.² The orders denying appellant's motion to stay and motion to recuse clearly are not the Family Court's "final act" in this case.

(4) The custody proceedings before the Family Court are ongoing. Accordingly, an appeal from the Family Court to this Court is premature absent compliance with the requirements for taking an interlocutory appeal in accordance with Supreme Court Rule 42. Appellant has not attempted to comply with this Rule.

NOW, THEREFORE, IT IS ORDERED that this appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

¹ *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

² *J.I. Kislak Mortgage Corp. v. William Matthews, Builder, Inc.*, 303 A.2d 648, 650 (Del. 1973).