

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE :
 :
 v. : Supr. Ct. No. 94, 2005
 : Criminal I.D. 0405005159
 CHARLES MONROE, :
 :
 Defendant. :

Upon Remand from the Supreme Court
Pursuant to Supreme Court Rules 19(c) and 26(d)(iii)

Submitted: October 19, 2005
Decided: November 21, 2005

ORDER

This 21st day of November 2005, upon remand from the Supreme Court dated October 18, 2005, and after conferring with the defendant on November 16, 2005, in the presence of the State and Ralph Wilkinson, Esquire, from the Office of the Public Defender, it appears:

1. That prior to November 16, 2005, Wilkinson visited the defendant at the prison to discuss with him his entitlement to counsel on appeal. The defendant reiterated what he had said at trial, that he wanted representation, but he did not want it from Wilkinson;
2. That the defendant was informed by the Court that he has a right to counsel on appeal;
3. That the defendant responded that he wanted to be represented by counsel, but would not accept representation from Wilkinson;

4. When advised that he could not choose his own attorney, that he was either going to have to proceed *pro se* or accept representation from Wilkinson, he said that he would not accept representation from Wilkinson;

5. That the defendant left high school prior to graduation, but later achieved a GED while incarcerated;

6. That he has experience with the criminal justice system, having participated in two trials and other legal proceedings;

7. That he understands that noncompliance with the rules of the Supreme Court may delay or prejudice his appeal;

8. That he understands that the Supreme Court may not allow oral argument, that it is discretionary;

9. That if he proceeds *pro se* that he will not thereafter be permitted to interrupt or delay the appellate process to secure the assistance of court-appointed counsel simply because he has changed his position.

WHEREFORE, I conclude that the defendant must proceed *pro se* if he desires to pursue his appeal. He is emphatic in his unwillingness to allow Wilkinson to assist him. Wilkinson has informed the Court that he, not another in the office of the Public Defender, is assigned to handle the appeal. Permitting this defendant to control the selection of his counsel is inconsistent with the manner in which the Public Defender provides services. While the defendant lacks the grasp on legal proceedings which would be available to him from a trained attorney, such as Wilkinson—who has consistently displayed patience with the defendant when in the presence of the Court, in spite of the

defendant's extremely personal attacks—I conclude that he understands the risks of proceeding on his own behalf and is determined to do so.

This matter is returned to the Supreme Court for its further consideration.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary

xc: The Honorable Randy J. Holland
The Honorable Jack B. Jacobs
The Honorable Henry duPont Ridgely
Clerk of the Supreme Court
James V. Apostolico, Esquire, Deputy Attorney General
Gregory E. Smith, Esquire, Deputy Attorney General
Ralph D. Wilkinson, Esquire, Assistant Public Defender
Mr. Charles Monroe