

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROGER L. JOHNSON,	§
	§
Defendant Below,	§ No. 226, 2019
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 9908000065 (K)
	§
Plaintiff Below,	§
Appellee.	§

Submitted: June 5, 2019  
Decided: July 17, 2019

Before **STRINE**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

**ORDER**

Having considered the notice to show cause and the response, it appears to the Court that:

(1) On May 24, 2019, the appellant, Roger L. Johnson, filed a notice of appeal from a Superior Court order, dated April 5, 2019, denying his motion to recuse the bench. The Senior Court Clerk issued a notice directing Johnson to show cause why this appeal should not be dismissed for this Court’s lack of jurisdiction to consider a criminal interlocutory appeal and for untimeliness. In his response to the notice to show cause, Johnson argues that the Superior Court order is final.

(2) This Court may only review a final judgment in a criminal case.<sup>1</sup> An order denying a motion for recusal is not a final order.<sup>2</sup> This appeal is also untimely because it was filed more than thirty days after the entry of the order upon the docket.<sup>3</sup> The appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, under Supreme Court Rule 29(b), that this appeal is DISMISSED.

BY THE COURT:

/s/ Karen L. Valihura  
Justice

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<sup>1</sup> Del. Const. art. IV, § 11(1)(b). *See also* *Gottlieb v. State*, 697 A.2d 400, 401 (Del. 1997) (holding this Court lacks jurisdiction to review interlocutory orders in criminal cases).

<sup>2</sup> *See, e.g., Shelley v. State*, 2018 WL 6331623, at \*1 (Del. Dec. 3, 2018) (dismissing appeal from denial of motion to recuse as interlocutory); *Desmond v. State*, 2010 WL 3673039, at \*1 (Del. Sept. 21, 2010) (“The denial of a motion for recusal of a judge is not a final, appealable order.”).

<sup>3</sup> Supr. Ct. R. 6 (a)(iv) (providing that appeal of postconviction order must be filed within thirty days of entry of the order upon the docket).