

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERMAINE CARTER,	§
	§
Defendant Below,	§ No. 348, 2021
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 0810013184 (N)
	§
Plaintiff Below,	§
Appellee.	§

Submitted: December 3, 2021

Decided: December 9, 2021

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

**ORDER**

After consideration of the notice to show cause and the response, it appears to the Court that:

(1) On November 2, 2021, the appellant, Jermaine Carter, filed this appeal from a Superior Court email, docketed on October 18, 2021, informing the State that it was not required to file a response to Carter’s motion for postconviction relief unless directed to do so. Carter claimed that the Superior Court refused to accept his motion for postconviction relief. On November 4, 2021, Carter filed another notice of appeal stating that the Superior Court may have refused to accept his motion for postconviction relief on October 25, 2021.

(2) On November 17, 2021, the Senior Court Clerk issued a notice directing Carter to show cause why this appeal should not be dismissed based on this Court's lack of jurisdiction to hear an interlocutory appeal in a criminal matter. The notice also directed Carter to explain why his motion to proceed *in forma pauperis* should not be denied based on his false certifications that he had made a diligent and good faith effort to determine the relevant case law controlling the issue he sought to raise and that he had no reason to believe his claims were foreclosed by controlling law.<sup>1</sup>

(3) In his response to the notice to show cause, Carter states that he believes his first notice of appeal was not interlocutory, but that his second notice of appeal may have been interlocutory and should be disregarded. He also contends that his certifications were not false.

(4) Under the Delaware Constitution, this Court may review only a final judgment in a criminal case.<sup>2</sup> The email docketed on October 18, 2021 is not a final judgment. Nor is it a refusal to accept Carter's motion for postconviction relief. According to the Superior Court docket, a motion for postconviction relief was docketed on October 14, 2021, an amended motion was docketed on October 26, 2021, and another amended motion was docketed on October 29, 2021. The docket

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<sup>1</sup> Based on his untimely, repetitive, and frivolous filings, the Court has previously ordered that Carter cannot pursue filings related to his convictions in this Court unless the filing is accompanied by the required filing fee or a completed motion to proceed *in forma pauperis* with a sworn affidavit containing the certifications required by 10 *Del. C.* § 8803(e) and that motion is granted by the Court. *Carter v. State*, 2020 WL 1652560, at \*1 (Del. Apr. 2, 2020).

<sup>2</sup> Del. Const. Art. IV, § 11(1)(b).

does not reflect that the Superior Court has ruled upon or refused to accept these motions. This appeal must therefore 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