

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALAN T. BROOKS,	§
	§ No. 234, 2001
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware,
v.	§ in and for New Castle County
	§ Cr.A. Nos. IN86-04-0490 - 0492,
STATE OF DELAWARE,	§ 0494; IN86-03-1329 - 1332.
	§
Plaintiff Below,	§
Appellee.	§ Def. ID NO. 86002026DI

Submitted: June 27, 2001

Decided: July 9, 2001

Before **WALSH, HOLLAND** and **BERGER**, Justices.

ORDER

This 9th day of July 2001, it appears to the Court that:

(1) On May 16, 2001, the appellant, Alan T. Brooks, filed a *pro se* notice of appeal from a decision of the Superior Court dated May 2, 2001.

In its May 2 decision, the Superior Court denied Brooks' April 2 letter in which he requested transcript at State expense so that he could draft a motion for postconviction relief. The Superior Court also advised Brooks that the proper recourse for requesting free transcript for drafting a post-trial motion is to file a motion for postconviction relief pursuant to Superior Court Criminal Rule ("Rule 61") which demonstrates actual need for the transcript.

(2) On May 16, 2001, the Clerk of this Court issued a notice, pursuant to Supreme Court Rule 29(b), directing Brooks to show cause why this appeal should not be dismissed for this Court's lack of jurisdiction to entertain a criminal interlocutory appeal. On June 27, 2001, Brooks filed a response to the notice to show cause. In his response, Brooks contends that the Superior Court's May 2 order is final because it denied postconviction relief as well as his request for transcript.

(3) Brooks is correct that the Superior Court's May 2 order applies the procedural bars of Rule 61 to his April 2 letter request for transcript. The order does not, however, deny a motion for postconviction relief. The order denies Brooks' letter request for transcript.

(4) This Court does not have jurisdiction to review the Superior Court's interlocutory ruling in this case. Under the Delaware Constitution, this Court may review only a final judgment in a criminal case.¹ The order of the Superior Court denying Brooks' request for transcript is "*not*

¹Del. Const. art. IV, § 11(1)(b).

appealable as a collateral order before the entry of a final order on a postconviction motion.”²

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

BY THE COURT:

/s/ Randy J. Holland
Justice

²*Mundy v. State*, Del. Supr., No. 347, 1999, Berger, J., 1999 WL 636615 (Aug. 5, 1999) (ORDER) (emphasis in original).