

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT J. MAHAN,	§
	§ No. 330, 2012
Petitioner Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
DEPARTMENT OF CORRECTION	§ in and for New Castle County
RECORD DEPARTMENT,	§ C.A. No. N12C-05-233
	§
Respondent Below-	§
Appellee.	§

Submitted: June 28, 2012

Decided: July 30, 2012

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

**ORDER**

This 30<sup>th</sup> day of July 2012, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Robert Mahan, filed this appeal from the Superior Court's order, dated June 4, 2012, which summarily dismissed his complaint seeking a Certification of Question of Law. The State of Delaware, as the real party in interest, has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Mahan's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that, on May 29, 2012, Mahan filed a civil complaint in the Superior Court entitled “Petition for a Certification of Question of Law.” The petition requested the Superior Court to certify a question of law to this Court to address whether 11 Del. C. § 4381(c) permits the Department of Correction to award earned good time credit to an inmate prior to the first day of the following calendar month in which the credit is earned. The Superior Court summarily dismissed Mahan’s petition on the ground that it did not have jurisdiction, under the circumstances, to award the relief Mahan sought.

(3) We agree with the Superior Court’s conclusion. Pursuant to Supreme Court Rule 41(a), the Superior Court may certify a question of law to this Court when the Superior Court determines that there is an important reason to do so. Mahan misapprehends the procedure for certification, however. The question sought to be certified must first be presented to the Superior Court for decision “in any case before it prior to the entry of final judgment.”<sup>1</sup> Mahan’s petition did not seek a final judgment from the Superior Court but instead simply sought to bypass presenting the issue to the Superior Court for a ruling in the first instance. Under the

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<sup>1</sup> See Del. Supr. Ct. R. 41(a) (2012)

circumstances, the Superior Court did not err in concluding that it had no jurisdiction to act on Mahan's petition to certify a question of law.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice