

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES D. SIVLEY,	§	
	§	No. 643, 2002
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware
v.	§	in and for Kent County
	§	
STATE OF DELAWARE,	§	Cr. ID No. 0004006015
	§	
Defendant Below,	§	
Appellee.	§	

Submitted: December 3, 2002

Decided: January 9, 2003

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices.

**ORDER**

This 9<sup>th</sup> day of January 2003, it appears to the Court that:

1. On November 21, 2002, the appellant, James D. Sivley, filed a *pro se* notice of appeal from a decision of the Superior Court dated October 21, 2002. In its decision, the Superior Court denied Sivley's Motion to Produce Transcripts.

2. On November 25, 2002, the Clerk of this Court issued a notice, pursuant to Supreme Court 29(b), directing Sively to show cause why this appeal should not be dismissed based on this Court's lack of jurisdiction to entertain a criminal interlocutory appeal. On December 3, 2002, Sively filed a response to the notice to show cause. In that response, Sively discusses the matter of timeliness.<sup>1</sup> He does not address the issue of this Court's lack of jurisdiction to entertain a criminal interlocutory appeal.

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<sup>1</sup> Although Sively's appeal was untimely, the Notice to Show Cause was not directed to the question of the untimeliness of the appeal.

3. The Superior Court's denial of a motion for transcripts is clearly an interlocutory ruling in this criminal matter.<sup>2</sup>

4. Under the Delaware Constitution, this Court may review only a final judgment in a criminal case.<sup>3</sup> As a result, this Court does not have jurisdiction to review the Superior Court's interlocutory ruling in this case.<sup>4</sup>

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

BY THE COURT:

/s/ E. Norman Veasey  
Chief Justice

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<sup>2</sup>See *Robinson v. State*, 704 A.2d 269, 271 (Del. 1998).

<sup>3</sup>DEL. CONST. ART. IV, § 11(1)(b).

<sup>4</sup>See *Gottlieb v. State*, 697 A.2d 400 (Del. 1997); *Rash v. State*, 318 A.2d 603 (Del. 1974).