

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANIEL A. BOGGS, JR.,	§	
	§	
Petitioner Below,	§	
Appellant,	§	
	§	
v.	§	No. 425, 2000
	§	
DENISE M. TREPTOR,	§	
	§	Court Below: Family Court
Respondent Below,	§	of the State of Delaware,
Appellee.	§	in and for New Castle County
	§	File No. CN94-11387

Submitted: September 7, 2000
Decided: September 14, 2000

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

O R D E R

This 14th day of September 2000, it appears to the Court that:

1) On August 30, 2000, the Clerk having issued a notice directing the appellant to show cause why this appeal should not be dismissed pursuant to Supreme Court Rule 29(b) for the appellant's failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order. On September 7, 2000, the appellant filed a response to the notice to show cause.

2) The appellant states that the orders appealed from are not interlocutory but rather final orders and that the appeal was filed in a timely manner.

3) The test for whether an order is final and therefore ripe for appeal is whether the trial court has clearly declared its intention that the order be the court's "final act" in a case.¹ At the time appellant filed this appeal in this Court, Family Court had yet to determine the appellant's petitions for custody and visitation. The Family Court had a hearing scheduled for September 14, 2000, regarding these matters. Appellant's right of appeal remains intact until the Family Court has disposed of all matters.

4) Since the requirements of Supreme Court Rule 42 have not been met by the appellant, the appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, that the within appeal be and hereby is DISMISSED pursuant to Supreme Court Rules 29(b) and 42.²

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ *J.I. Kislak Mortgage Corporation of Delaware v. William Matthews, Builder, Inc.*, Del. Supr., 303 A.2d 648, 650 (1973).

² Of course, the dismissal of this appeal does not preclude the appellant from filing a notice of appeal once a final order has issued from the Family Court.