

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NIKERRAY MIDDLEBROOK,	§	
	§	
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	No. 373, 2000
	§	
STATE OF DELAWARE,	§	Court Below: Superior Court
	§	of the State of Delaware, in
Plaintiff Below,	§	and for New Castle County,
Appellee.	§	in Cr. ID No. 9608015635.

Submitted: September 1, 2000  
Decided: September 14, 2000

Before WALSH, HOLLAND and STEELE, Justices.

**ORDER**

This 14<sup>th</sup> day of September 2000, it appears to the Court that:

1. On August 1, 2000, the appellant, appearing *pro se*, has filed a notice of appeal from the interlocutory order of the Superior Court dated July 12, 2000, reappointing the Public Defender to represent the defendant with respect to his post-conviction relief motion alleging that the defendant had been denied effective assistance of counsel because prior counsel had not earlier timely filed a direct appeal on the defendant's behalf. On August 10, 2000, the Assistant Clerk issued a notice which directed the

appellant 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 August 21, 2000, the appellant filed a response to the notice to show cause. The appellant requests this Court to entertain the criminal interlocutory appeal in the interest of justice. On August 22, 2000, the Assistant Clerk requested the Public Defender's office to respond to the appellant's *pro se* response to the notice to show cause. On August 25, 2000, the Public Defender's office responded informing the Court that the Superior Court had resentenced the defendant on August 21, 2000 and reappointed the Public Defender to pursue a direct appeal on behalf of the appellant.<sup>1</sup>

2. Under the Delaware Constitution, only a final judgment may be reviewed by this Court in a *criminal* case.<sup>2</sup> As a result, this Court has no jurisdiction to review an interlocutory appeal in a criminal case.<sup>3</sup> This well-settled principle of Delaware constitutional law precludes our consideration of Middlebrook's appeal of the Superior Court's July 12 order.

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<sup>1</sup> A notice of appeal from the Superior Court's resentencing on August 21, 2000 was filed on August 30, 2000 and assigned appeal No. 424, 2000.

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

3. Furthermore, a defendant represented by counsel may not act *pro se*. Counsel is the only person who is authorized to act on behalf of the defendant.<sup>4</sup>

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>3</sup> *Rash v. State*, Del Supr., 318 A.2d 603, (1974); *State v. Cooley*, Del. Supr., 430 A.2d 789 (1981).

<sup>4</sup> *In the Matter of Haskins*, Del. Supr., 551 A.2d 65, 66-67 (1988).