

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARRYL F. SANDERS,

Petitioner Below,
Appellant,

v.

TANYA D. LEWIS,

Respondent Below,
Appellee.

No. 59, 2004

Court Below: Family Court of the
State of Delaware in and for New
Castle County

File No. CN01-09216

CPI Nos. 01-25471 and 01-28346

Submitted: March 4, 2004

Decided: April 6, 2004

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

ORDER

This sixth day of April 2004, it appears to the Court that:

(1) On February 13, 2004, this Court received the appellant's notice of appeal from the Family Court's January 15, 2004 order regarding custody and visitation.

(2) On February 19, 2004, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed for his failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order. In his response, the

appellant argues that the Family Court's Order is not interlocutory, despite the fact that the Family Court states that its order provides for interim custody and visitation pending the scheduling of a "five-hour final custody hearing."

(3) Absent compliance with Rule 42, the jurisdiction of this Court is limited to the review of final judgments of trial courts.¹ An order is deemed final if the trial court has clearly declared its intention that the order be the court's "final act" in the case.²

(4) Here, the Family Court's order, by its terms, is intended to provide for interim custody and visitation arrangements pending the Family Court's final disposition. Accordingly, this appeal from the Family Court is premature absent compliance with the requirements for taking an interlocutory appeal in accordance with Supreme Court Rule 42. The appellant has not attempted to comply with this Rule.

NOW, THEREFORE, IT IS ORDERED that the appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

² *J.I. Kislak Mortgage Corp. v. William Matthews, Builder, Inc.*, 303 A.2d 648, 650 (Del. 1973).