

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MUSTAFA WHITFIELD,	§	
	§	
Defendant Below-	§	No. 96, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	Cr. ID No. 0210009174
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: March 26, 2004
Decided: April 20, 2004

Before **HOLLAND, STEELE** and **JACOBS**, Justices

ORDER

This 20th day of April 2004, it appears to the Court that:

(1) The defendant-appellant, Mustafa Whitfield, filed a notice of appeal¹ from the Superior Court's March 5, 2004 order denying his motion for judgment of acquittal in his criminal case.

(2) On March 15, 2004, the Clerk wrote to Whitfield's trial counsel requesting that he recognize his continuing obligation under Supreme Court Rule 26(a) to represent Whitfield in this appeal. On March 17, 2004, Whitfield's counsel wrote to the Clerk and informed the Court that Whitfield's sentencing in

¹ Whitfield filed a letter on March 11, 2004, which we deemed to be a notice of appeal.

his criminal case had been scheduled for April 16, 2004 and that, once sentencing took place, an appeal would be filed.

(3) On March 17, 2004, the Clerk issued a notice to Whitfield to show cause why his appeal should not be dismissed pursuant to Supreme Court Rule 29(b) based on this Court's lack of jurisdiction to review an interlocutory order in a criminal case.² Whitfield responded to the notice to show cause on March 26, 2004, but did not address the jurisdictional issue.

(4) Because the Superior Court's order denying Whitfield's motion for judgment of acquittal is interlocutory, we have no authority to review it. Once the Superior Court has issued Whitfield's sentencing order, Whitfield's counsel will file an appeal on his behalf.

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

BY THE COURT:

/s/ Randy J. Holland
Justice

² Del. Const. art. IV, § 11(1) (b); *Robinson v. State*, 704 A.2d 269, 271 (Del. 1998) (the denial of a motion for judgment of acquittal in a criminal case is an interlocutory ruling.)