

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PETER KOSTYSHYN,	§	No. 267, 2004
	§	
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Def. ID No. 0304020154
Appellee.	§	

Submitted: July 27, 2004
Decided: August 17, 2004

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 17th day of August 2004, it appears to the Court that:

(1) On June 23, 2004, the appellant, Peter Kostyshyn (Kostyshyn), filed a *pro se* notice of appeal on his behalf and on behalf of his co-defendant, Patricia Kostyshyn. Kostyshyn seeks to appeal a decision of the Superior Court dated April 22, 2004, that granted a motion to sever. Kostyshyn, who is represented by counsel in the Superior Court, is scheduled to begin his trial on September 8, 2004. Kostyshyn's co-defendant, Patricia Kostyshyn, who is also

represented by counsel, was tried and convicted on April 27, 2004, and is awaiting sentencing.¹

(2) It is well-settled Delaware law that only a member of the Bar of this Court, a party appearing *pro se*, or an attorney admitted *pro hac vice* may file papers on behalf of a party.² Kostyshyn is not an attorney. He may not file a notice of appeal on behalf of Patricia Kostyshyn.

(3) On June 23, 2004, the Clerk of this Court issued a notice directing that Kostyshyn show cause why his appeal should not be dismissed for this Court's lack of jurisdiction to consider a criminal interlocutory appeal. Kostyshyn has requested an extension of time to respond to the notice to show cause.

¹See *State v. Kostyshyn*, Del. Super., Def. ID No. 030402151.

²Supr. Ct. R. 12; *In re Coleman*, 1991 WL 28900 (Del. Supr.) (citing *Delaware State Bar Ass'n v. Alexander*, 386 A.2d 652 (Del. 1978); *Townsend v. Griffith*, 570 A.2d 1157 (Del. 1990)).

(4) Under the Delaware Constitution, this Court may review only a final judgment in a criminal case.³ The granting of a motion to sever in the Superior Court is not a final appealable order. This Court does not have jurisdiction to consider Kostyshyn's criminal interlocutory appeal.⁴

(5) The Court concludes, pursuant to Supreme Court Rule 29(c), that Kostyshyn's criminal interlocutory appeal, on its face, manifestly fails to invoke the Court's jurisdiction. Consequently, any response filed by Kostyshyn to the notice to show cause would be of no avail.

NOW, THEREFORE, IT IS ORDERED that Kostyshyn's request for an extension of time to respond to the notice to show cause is DENIED. This appeal is DISMISSED, *sua sponte*, pursuant to Supreme Court Rule 29(c).

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

³Del. Const. Art. IV, § 11(1)(b).

⁴*See Gottlieb v. State*, 697 A.2d 400 (Del. 1997); *State v. Cooley*, 430 A.2d 789 (Del. 1981); *Rash v. State*, 318 A.2d 603 (Del. 1974).