

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MUSTAFA WHITFIELD,	§	
	§	No. 521, 2013
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0210009174
Appellee.	§	

Submitted: December 2, 2013
Decided: December 13, 2013

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

ORDER

This 13th day of December 2013, it appears to the Court that:

(1) On August 15, 2013, the appellant, Mustafa Whitfield, was charged in the Superior Court with violation of probation (“VOP”) in Cr. ID No. 0210009174. On October 1, 2013, Whitfield filed a notice of appeal stating that he “intends to appeal” the August 30, 2013 “conviction of guilt” in that case. Upon receipt of the notice of appeal, the Clerk issued a notice directing that Whitfield show cause why the appeal should not be dismissed

due to the Court's lack of jurisdiction to entertain a criminal interlocutory appeal.¹

(2) On October 28, 2013, Whitfield filed a response to the notice to show cause, and on December 2, 2013, the State filed an answer to Whitfield's response. In its answer, the State informs the Court that the August 30, 2013 VOP hearing in Whitfield's case was continued until November 22, 2013. On that date, Whitfield was adjudged guilty of VOP and sentenced to two years and eleven months at Level V suspended after 104 days for two years of probation.

(3) Under the Delaware Constitution, only a final judgment may be reviewed by this Court in a criminal case.² A criminal conviction does not become final, and this Court does not, therefore, have jurisdiction to entertain an appeal from that conviction, until sentence is imposed.³ Because Whitfield had not yet been sentenced October 1, 2013 when he filed

¹ *Brown v. State*, 2012 WL 4466314 (Del. Sept. 26, 2012) (citing *State v. Cooley*, 430 A.2d 789, 791 (Del. 1981)).

² *See Blake v. State*, 2012 WL 566417 (Del. Feb. 21, 2012) (citing Del. Const. art. IV, § 11(1)(b); *Gottlieb v. State*, 697 A.2d 400, 401-02 (Del. 1997)).

³ *Hunter v. State*, 209 A.2d 469, 470 (Del. 1965).

his notice of appeal, his appeal is interlocutory, and this Court has no jurisdiction to consider it.⁴

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

BY THE COURT:

/s/ Randy J. Holland

Justice

⁴ The Court notes that if Whitfield intends to appeal the November 22, 2013 VOP conviction, he must file the notice of appeal within thirty days of sentencing, *i.e.*, on or before December 23, 2013, for the appeal to be effective. Del. Supr. Ct. R. 6(a)(ii).