

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY A. COOPER,	§
	§ No. 513, 2004
Defendant Below,	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID No. 0301018775
Plaintiff Below,	§
Appellee.	§

Submitted: December 14, 2004

Decided: December 29, 2004

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

ORDER

This 29th day of December 2004, it appears to the Court that:

(1) On November 22, 2004, appellant Anthony Cooper filed a notice of appeal from an order of the Superior Court, dated November 4, 2004, which denied his motion to compel his public defender to turn over statements Cooper allegedly made to an employee of the public defender's office. On December 1, 2004, the Clerk issued a notice, pursuant to Supreme Court Rule 29(b), directing Cooper to show cause why this appeal should not be dismissed based on this Court's lack of jurisdiction to entertain a criminal interlocutory appeal.

(2) On December 14, 2004, Cooper filed a response to the notice to show cause. Cooper's response does not address the issue of this Court's lack of jurisdiction to entertain a criminal interlocutory appeal.

(3) Under the Delaware Constitution, only a final judgment may be reviewed by this Court in a *criminal* case.¹ As a result, this Court has no jurisdiction to review an interlocutory appeal in a criminal case.² The order of the Superior Court denying the appellant's motion to compel is clearly an interlocutory order and not a final judgment. To the extent Cooper seeks production of the documents in order to pursue postconviction relief, he may appeal the Superior Court's denial of his motion to compel as part of his appeal, if necessary, from a final judgment in a postconviction proceeding.³

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

¹ DEL. CONST. art. IV, § 11(1)(b).

² *Rash v. State*, 318 A.2d 603 (Del. 1974); *State v. Cooley*, 430 A.2d 789 (Del. 1981).

³ *See In re Hyson*, 649 A.2d 807, 808 (Del. 1994).