

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERRY LEE ALSTON,

Plaintiff Below,
Appellant,

v.

STATE OF DELAWARE;
ATTORNEY GENERAL M.
JANE BRADY; DELAWARE
STATE POLICE AS AN
ENTITY; NICOLE C. PARTON
(00220) OF TROOP E, STATE
POLICE

Defendants Below,
Appellees.

No. 98, 2002

Court Below: Superior Court
of the State of Delaware in and
for Kent County

C.A. No. 01C-09-030

Submitted: March 22, 2002

Decided: April 1, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices.

ORDER

This 1st day of April 2002, it appears to the Court that:

(1) On February 25, 2002, this Court received from the appellant, Jerry Lee Alston, a letter stating his intention to appeal from a Superior Court decision of January 28, 2002, which granted the Motion to Dismiss of Attorney General M. Jane Brady from the captioned matter. On March 8,

2002, in compliance with a direction from this Court, Mr. Alston filed a formal notice of appeal from that decision.

(2) On March 11, 2002, the Clerk of the Court issued to Mr. Alston a notice to show cause why the case should not be dismissed for his failure to comply with Rule 42 when taking an appeal from an apparent interlocutory order.

(3) Mr. Alston filed a response to the Notice to Show Cause on March 22, 2002. In his response, Mr. Alston raises various points and arguments on numerous topics. In a separate letter accompanying the response to the Notice to Show Cause, Mr. Alston contends that the purpose of the document is to comply with Supreme Court Rule 42. He also appears to attempt to present the Court with certified questions of law under Supreme Court Rule 41.

(4) Supreme Court Rule 42 sets forth the requirements for filing an interlocutory appeal. Mr. Alston has not complied with those requirements.

Supreme Court Rule 41 provides that only courts may apply to the Supreme Court for a certification of question of law.

(5) 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 Mr. Alston has attempted to appeal the dismissal of one party from the pending Superior Court case. The Superior Court has not issued its final judgment in that case. Appellant "fails to appreciate the strong policy of this Court not to accept piecemeal appeals from a single proceeding in a trial court."³

(6) The proceedings before the Superior Court are ongoing. The judgment of January 28, 2002, is not the Court's final order in the case. Accordingly, an appeal from the Superior Court to this Court is premature absent compliance with the requirements for taking an interlocutory appeal in accordance with Supreme Court Rule 42. Appellant has not complied with this Rule.

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).

³ *Pinkowski v. Burris*, Del. Supr., No. 396, 1994, Walsh, J. (Jan. 30, 1995) (Order).

NOW, THEREFORE, IT IS ORDERED that appellant's appeal be,
and it hereby is, DISMISSED.

BY THE COURT:

s/Joseph T. Walsh
Justice