

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|--------------------------------|
| PETER KOSTYSHYN, | § |
| | § No. 89, 2013 |
| Defendant Below- | § |
| Appellant, | § |
| v. | § Court Below—Superior Court |
| | § of the State of Delaware |
| | § in and for New Castle County |
| STATE OF DELAWARE, | § Cr. ID No. 0908020496 |
| | § |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: March 19, 2013

Decided: April 2, 2013

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

ORDER

This 2nd day of April 2013, it appears to the Court that:

(1) On March 4, 2013, the Court received the appellant’s notice of appeal from the Superior Court’s February 21, 2013 order denying his request for documents under the Freedom of Information Act. The appellant is an incarcerated inmate, having been convicted of criminal offenses in the Superior Court on November 24, 2010.

(2) On March 4, 2013, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why his appeal should not be dismissed due to this Court’s lack of jurisdiction to

entertain an interlocutory appeal in a criminal matter.¹ The appellant filed a response to the notice to show cause on March 19, 2013. The appellant states that he opposes dismissal of this matter. He further asks this Court to remand the matter to the Superior Court for a full discussion of his complaints.

(3) The Superior Court's February 21, 2013 order denying the appellant's request for documents is an interlocutory, and not a final, order.² Under the Delaware Constitution, only a final judgment may be reviewed by this Court in a criminal case.³ As a result, this Court has no jurisdiction to consider the appellant's interlocutory appeal.⁴ Therefore, the appeal must be dismissed.

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

¹ Del. Const. art. IV, §11(1) (b).

² *Showell Poultry v. Delmarva Poultry Corp.*, 146 A.2d 794, 795-96 (Del. 1958) (a final judgment is one which determines the merits of the controversy and leaves nothing for future consideration).

³ Del. Const. art. IV, §11(1) (b).

⁴ *Gottlieb v. State*, 697 A.2d 400, 402 (Del. 1997).