

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS L. FLEETWOOD,	§
	§
Defendant Below,	§ No. 168, 2017
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1503013906
	§
Plaintiff Below,	§
Appellee.	§

Submitted: May 1, 2017

Decided: May 5, 2017

Before **STRINE**, Chief Justice; **VALIHURA**, and **VAUGHN**, Justices.

ORDER

This 5th day of May 2017, it appears to the Court that:

(1) On April 17, 2017, the appellant, Thomas L. Fleetwood, filed a notice of appeal from a January 13, 2017 Superior Court order denying his motion for appointment of counsel and motion for transcripts at State expense. Fleetwood filed the motion in connection with his first motion for postconviction relief. The Senior Court Clerk issued a notice directing Fleetwood to show cause why his appeal should not be dismissed based on this Court's lack of jurisdiction under Article IV, § 11(1)(b) of the Delaware Constitution to hear an interlocutory appeal in a criminal case.

(2) In his response to the notice to show cause, Fleetwood states that he does not understand what an interlocutory order is, he previously received an identical notice to show cause dated February 13, 2017, and he needs a ten day extension to respond to the notice to show cause. A review of the Supreme Court docket reflects that Fleetwood previously filed an appeal of the Superior Court's January 13, 2017 order in appeal No. 69, 2017. That appeal was dismissed as interlocutory on March 2, 2017.¹ Given that this is the second time Fleetwood has filed a notice of appeal from the Superior Court's January 13, 2017 order, Fleetwood's request for an extension to respond to the notice to show cause is denied.

(3) Under the Delaware Constitution, this Court may review only a final judgment in a criminal case.² The Superior Court's denial of Fleetwood's motion for appointment of counsel and motion for transcripts at State expense is an interlocutory, not final, order.³ This Court therefore does not have jurisdiction to review this appeal.⁴ When the Superior Court rules on Fleetwood's motion for postconviction relief, there will be a final order for Fleetwood to appeal.

¹ *Fleetwood v. State*, 2017 WL 837690 (Del. Mar. 2, 2017).

² Del. Const. art. IV, § 11(1)(b).

³ See, e.g., *Harris v. State*, 2013 WL 4858990, at *1 (Del. Sept. 10, 2013) (holding Superior Court order denying motion for appointment of counsel is an interlocutory order).

⁴ *Gottlieb v. State*, 697 A.2d 400, 401 (Del. 1997).

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

BY THE COURT:

/s/ Karen L. Valihura
Justice