IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID J. BUCHANAN,	§	
	§	
Defendant Below-Appellant,	§	No. 413, 2013
	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for Sussex County
	§	Cr. ID 0801031784
Plaintiff Below-Appellee.	§	
	§	

Submitted: August 20, 2013
Decided: August 29, 2013

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

ORDER

This 29th day of August 2013, it appears to the Court that:

(1) On August 5, 2013, the Court received David Buchanan's notice of appeal from a Superior Court order, dated July 18, 2013, which struck Buchanan's motion for correction of sentence for failure to comply with a prior Court order.[1] The Chief Deputy Court Clerk issued a notice to Buchanan to show cause why the appeal should not be dismissed as an impermissible interlocutory appeal in a criminal case.[2]

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[1] Due to the volume of his frivolous filings, the Superior Court issued an order in 2010 directing that no further filings would be accepted from Buchanan unless he obtained the prior written approval of a Superior Court judge.

[2] *Gottlieb v. State*, 697 A.2d 400, 401-02 (Del. 1997).

(2) Buchanan filed a response to the notice to show cause on August 15, 2013. He asserts that the Superior Court's order is final because it denied him substantive relief. The State has filed a reply and points out that the Superior Court's order was procedural only and did not deny him the opportunity to seek modification of his sentence if his motion was filed in compliance with the Superior Court's prior directive. In fact, as the State points out, Buchanan later requested and obtained leave from the Superior Court to file a motion for correction of sentence, which the Superior Court then denied on the merits.

(3) Under settled Delaware law, only a final judgment in a criminal case is reviewable on appeal in this Court.[3] The order in this case is interlocutory because it did not address the merits of Buchanan's motion. Buchanan, if he chooses, may appeal the Superior Court's later ruling, which did resolve the merits of his motion.

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

[3] DEL. CONST. art IV, § 11(1)(b).