

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEFFREY D. SCOTT,	§	
	§	No. 233, 2008
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Kent County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0407003957
Appellee.	§	

Submitted: May 23, 2008

Decided: July 10, 2008

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

ORDER

This 10th day of July 2008, it appears to the Court that:

(1) On May 12, 2008, the appellant, Jeffrey D. Scott, filed a notice of appeal from an April 16, 2008 report and recommendations of a Superior Court Commissioner. The Commissioner recommended that the Superior Court deny Scott's motion for postconviction relief pursuant to Superior Court Criminal Rule 61.

(2) On May 14, 2008, the Clerk of this Court issued a notice directing that Scott show cause why his appeal should not be dismissed pursuant to Supreme Court Rule 29(b) for this Court's lack of jurisdiction to consider a criminal interlocutory appeal. Scott filed a response to the notice

to show cause on May 23, 2008. Scott asserted that his notice of appeal was filed in a timely manner. Scott did not, however, address this Court's lack of jurisdiction to consider a criminal interlocutory appeal.

(3) Under the Delaware Constitution, this Court may review only a final judgment in a criminal case.¹ The Court does not have the authority to hear an appeal from an order of a Superior Court commissioner without intermediate review of that order by a Superior Court judge.²

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

BY THE COURT:

/s/ Randy J. Holland
Justice

¹ Del. Const. art. IV, § 11(1)(b) (2007).

² *Gottlieb v. State*, 697 A.2d 400 (Del. 1997). See Del. Super. Ct. Crim. R. 62(a)(5) (providing for authority of a Superior Court commissioner to submit a Rule 61 report and recommendation to a Superior Court judge for disposition).