IN THE SUPREME COURT OF THE STATE OF DELAWARE

MICHAEL BROWN,	§	
	§	No. 494, 2012
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	Cr. ID No. 0412008486
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: September 17, 2012
Decided: September 26, 2012

Before **BERGER, JACOBS** and **RIDGELY,** Justices.

O R D E R

This 26th day of September 2012, it appears to the Court that:

(1) In September 2006, a Superior Court jury found the appellant, Michael A. Brown, guilty of multiple counts of Robbery in the First Degree and other related offenses. Brown was sentenced to a lengthy prison term. On direct appeal, we affirmed Brown's convictions and sentences.[1]

(2) On January 7, 2008, Brown filed his first motion for postconviction relief pursuant to Superior Court Criminal Rule 61. By order dated February 28,

[1] *Brown v. State*, 2007 WL 2399227 (Del. Supr.).

2008, the Superior Court denied the motion.[2] Brown did not appeal the Superior Court's judgment.

(3) Brown filed his second postconviction motion on December 28, 2008. The motion was assigned to a Superior Court Commissioner who, on February 6, 2009, filed a report recommending that the motion should be summarily dismissed.

(4) Brown filed a notice of appeal from the Commissioner's report in the Delaware Supreme Court. By order dated July 20, 2009, we dismissed the appeal.[3] Thereafter, by order dated August 1, 2011, the Superior Court adopted the Commissioner's report and denied Brown's second postconviction motion. Brown did not appeal the Superior Court's judgment.

(5) On September 7, 2012, the Court received Brown's notice of appeal from the Superior Court's letter order of August 8, 2012 denying his motion for appointment of counsel filed on April 18, 2012. On September 7, 2012, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing that Brown show cause why the appeal should not be dismissed based upon this Court's lack of jurisdiction to entertain an interlocutory appeal in a criminal matter.

(6) In his response to the notice to show cause, Brown asserts that "he is entitled to the effective assistance of counsel in connection with his first state

[2] *State v. Brown*, 2008 WL 555921 (Del. Super. Ct.).

[3] *Brown v. State*, 2009 WL 2142495 (Del. Supr.). Brown did not respond to the State's motion to dismiss.

petition for postconviction relief." Brown contends that the August 8, 2012 letter order denying his motion for appointment of counsel "involves a substantial question of law, the early determination of which will promote a more orderly disposition of the case."

(7) Under the Delaware Constitution, only a final judgment may be reviewed by this Court in a criminal case.[4] The Court has no jurisdiction to entertain an appeal from an interlocutory order in a criminal case.[5] In this case, the Superior Court's October August 8, 2012 letter order denying Brown's motion for appointment of counsel (presumably to pursue a postconviction remedy) is an interlocutory order and not a final criminal judgment.[6] This Court has no jurisdiction to consider Brown's appeal.[7]

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

[4] Del. Const. art. IV, § 11(1)(b).

[5] *State v. Cooley*, 430 A.2d 789, 791 (Del 1981).

[6] *See Daniels v. State*, 2009 WL 3367072 (Del. Supr.) (dismissing appeal from order denying appointment of counsel).

[7] *See St. Louis v. State*, 2012 WL 130877 (Del. Supr.) (citing *Gottlieb v. State*, 697 A.2d 400 (Del. 1997)).