IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANIBAL G. MELENDEZ,	§	
	§	No. 214, 2014
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0509024924
Appellee.	§	

Submitted: May 19, 2014 Decided: May 21, 2014

Before STRINE, Chief Justice, BERGER and RIDGELY, Justices.

ORDER

This 21st day of May 2014, it appears to the Court that:

(1) In 2007, the appellant, Anibal G. Melendez, was convicted of Assault in a Detention Facility and related offenses and was sentenced to a lengthy prison term. On direct appeal, this Court affirmed Melendez' convictions and sentence.¹ The Court has also affirmed the denial of Melendez' first motion for postconviction relief under Superior Court Criminal Rule 61 (hereinafter "Rule 61").²

¹ Melendez v. State, 2008 WL 187950 (Del. Jan. 23, 2008).

² Melendez v. State, 2010 WL 376875 (Del. Jan. 5, 2010).

- denying his motion for the appointment of counsel to pursue his second motion for postconviction relief under Rule 61. By notice dated May 9, 2014, the Clerk directed that Melendez show cause under Supreme Court Rule 29(b) why the appeal should not be dismissed based upon this Court's lack of jurisdiction to entertain an interlocutory appeal in a criminal matter. In his May 19, 2014 response to the notice to show cause, Melendez argues that, under the Delaware Constitution, this Court has jurisdiction "to determine finally all matters of appeal on the judgments and proceedings" of the Superior Court in criminal cases, including his appeal from the April 4, 2014 denial of his motion for appointment of counsel.
- (3) Melendez is mistaken. Under the Delaware Constitution only a final judgment may be reviewed by the Court in a criminal case.³ The Court has no jurisdiction to entertain an appeal from an interlocutory order in a criminal case.⁴
- (4) In this case, the Superior Court's April 4, 2014 order denying Melendez' motion for appointment of counsel is an interlocutory order. The denial

³ Del. Const. art. IV, § 11(1)(b).

⁴ See Brown v. State, 2012 WL 4466314 (Del. Sept. 26, 2012) (citing State v. Cooley, 430 A.2d 789, 791 (Del.1981)).

of Melendez' motion for appointment of counsel is not appealable as a collateral order prior to the entry of a final order on a motion for postconviction relief.⁵

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

BY THE COURT:

/s/ Henry duPont Ridgely Justice

⁵ See St. Louis v. State, 2012 WL 130877 (Del. Jan. 17, 2012) (citing Robinson v. State, 704 A.2d 269, 271 (Del. 1998)).