

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SAMUEL PAINTER <sup>1</sup> ,	§	
	§	No. 377, 2020
Petitioner Below,	§	
Appellant,	§	
	§	
v.	§	Court Below—Family Court
	§	of the State of Delaware
LOUISE PAINTER,	§	
	§	File No. CN14-02909
Respondent Below,	§	Petition No. 20-13918
Appellee.	§	

Submitted: December 30, 2020

Decided: January 11, 2021

Before **SEITZ**, Chief Justice; **TRAYNOR** and **MONTGOMERY-REEVES**, Justices.

**ORDER**

After careful consideration of the notice to show cause and the appellant's response, it appears to the Court that:

(1) On November 5, 2020, the appellant, Samuel Painter (“the Father”), filed a notice of appeal from an October 7, 2020 Family Court scheduling order issued in connection with the Father’s petition for the modification of the court’s previously ordered child visitation schedule. Among other things, the Family Court’s order directed the Father to engage in mental health treatment prior to a

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<sup>1</sup> The Court previously assigned pseudonyms to the parties under Supreme Court Rule 7(d).

hearing on the merits of the Father's petition, which is scheduled to be held on January 6, 2021.

(2) The Clerk of this Court issued a notice to the Father to show cause why his appeal should not be dismissed for his failure to comply with Supreme Court Rule 42 in taking an appeal from an interlocutory order. The Father filed a response to the notice to show cause, but it does not address the interlocutory nature of his appeal.

(3) An order constitutes a final judgment when it "leaves nothing for future determination or consideration."<sup>2</sup> The Family Court's scheduling order is interlocutory because the Family Court did not finally resolve the merits of the Father's petition for modification of the visitation order.<sup>3</sup>

(4) Absent compliance with Supreme Court Rule 42, the appellate jurisdiction of this Court is limited to the review of final trial court orders.<sup>4</sup> The Father's failure to comply with Supreme Court Rule 42 leaves this Court without jurisdiction to hear his interlocutory appeal. The Father may appeal once the Family Court issues a final order in the visitation proceedings.

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<sup>2</sup> *Werb v. D'Alessandro*, 606 A.2d 117, 119 (Del. 1992).

<sup>3</sup> *Id.*

<sup>4</sup> *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

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

BY THE COURT:

/s/ Tamika R. Montgomery-Reeves  
Justice