

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARRY WHITAKER, <sup>1</sup>	§
	§ No. 252, 2012
Respondent Below-	§
Appellant,	§
v.	§ Court Below—Family Court
	§ of the State of Delaware
	§ in and for Kent County
BETTY B. WHITAKER,	§ File No. CK10-01981
	§ Petition No. 11-29771
Petitioner Below-	§
Appellee.	§

Submitted: May 30, 2012

Decided: June 19, 2012

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

**ORDER**

This 19<sup>th</sup> day of June 2012, it appears to the Court that:

(1) On May 14, 2012, the Court received the appellant’s notice of appeal from the Family Court’s April 24, 2012 order denying his request to proceed *in forma pauperis* in connection with a petition filed in the Family Court. On May 15, 2012, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why his appeal should not be dismissed for his failure to comply with Rule 42 when taking an appeal from an apparent interlocutory order.

---

<sup>1</sup> The Court *sua sponte* assigned pseudonyms to the parties by Order dated May 15, 2012. Supr. Ct. R. 7(d).

(2) On May 30, 2012, the appellant filed a response to the notice to show cause. In his response, the appellant acknowledges that his appeal is interlocutory, but nevertheless requests the Court to entertain the appeal. The appellant also appears to argue that he has satisfied the requirements of Rule 42.

(3) It is undisputed that the appellant's appeal is interlocutory. Absent compliance with Rule 42, this Court is without jurisdiction to entertain an interlocutory appeal.<sup>2</sup> To the extent the appellant takes the position that he has complied with the requirements of Rule 42, he is incorrect. Among other things, Rule 42 requires that application for certification to take an interlocutory appeal be made in the first instance to the trial court.<sup>3</sup> The record does not reflect that the procedures outlined for application to take an interlocutory appeal, including application to the trial court, were followed in this case. As such, this Court lacks the authority to entertain the appeal and it must be dismissed.

NOW, THEREFORE, IT IS ORDERED that this appeal is DISMISSED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

---

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

<sup>3</sup> Supr. Ct. R. 42(c).