

SUPREME COURT OF THE STATE OF DELAWARE

Perkins v. State

Perkins v. State · No. No. 648, 2014 · Decided January 13, 2015

SUMMARY

The Delaware Supreme Court dismissed Leon K. Perkins’s appeal from an order denying his motion for appointment of counsel in connection with further post-conviction proceedings. The Court held that the order was interlocutory and not appealable in a criminal matter before entry of a final order on the post-conviction motion.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Leo E. Strine, Jr., Chief Justice; Holland, Justice; Valihura, Justice
JURISDICTION	Delaware
DECIDED	January 13, 2015
DOCKET	No. 648, 2014
DISPOSITION	dismissed
PROCEDURAL POSTURE	Perkins appealed the Superior Court's interlocutory order denying his motion for appointment of counsel to pursue further postconviction remedies. The Delaware Supreme Court issued a notice to show cause under Supreme Court Rule 29(b) and dismissed the appeal for lack of jurisdiction.
PRECEDENTIAL VALUE	Not stated in the opinion
PARTIES	Leon K. Perkins v. State of Delaware

TOPICS

- appellate jurisdiction
- interlocutory appeal
- appellate procedure
- post-conviction relief
- criminal procedure

PRACTICE AREAS

- appellate procedure
- criminal procedure
- postconviction relief
- constitutional law

QUESTIONS PRESENTED

1. Whether the Delaware Supreme Court had jurisdiction to review an interlocutory Superior Court order denying appointment of counsel in a criminal postconviction matter.
2. Whether the denial of appointment of counsel was appealable as a collateral order before entry of a final order on the postconviction motion.

HOLDINGS

1. Under the Delaware Constitution, the Supreme Court may review only a final judgment in a criminal case; an interlocutory order is not appealable absent an applicable exception.
2. The denial of a motion for appointment of counsel to pursue postconviction remedies is not appealable as a collateral order before entry of a final order on the postconviction relief motion.

KEY QUOTATIONS

“Under the Delaware Constitution only a final judgment may be reviewed by the Court in a criminal case.”
(2)

“The denial of Perkins’ motion is not appealable as a collateral order before the entry of a final order on a motion for postconviction relief.” (2)

FACTUAL BACKGROUND

Perkins was convicted of first-degree murder and related weapon offenses in 2005 and sentenced to mandatory life imprisonment plus sixteen years. After unsuccessful direct and postconviction proceedings, he sought appointment of counsel to pursue further postconviction remedies. The Superior Court denied that motion, and Perkins attempted an immediate appeal.

PROCEDURAL HISTORY

Perkins was convicted in 2005 of first-degree murder and related weapons offenses and received mandatory life imprisonment plus sixteen years. The Delaware Supreme Court affirmed his convictions and sentence on direct appeal and later affirmed the denial of postconviction relief. After the Superior Court denied his motion for appointment of counsel on November 5, 2014, Perkins appealed; the Supreme Court dismissed the appeal as an impermissible interlocutory criminal appeal.

DISPOSITION

dismissed

CASES CITED

- Perkins v. State, 920 A.2d 391 (Del. 2007)
- State v. Perkins, 2008 WL 2406231 (Del. Super. June 11, 2008)
- State v. Perkins, 2008 WL 5191831 (Del. Dec. 11, 2008)
- State v. Cooley, 430 A.2d 789, 791 (Del. 1981)

- Lopez v. State, 2014 WL 3586494 (Del. July 21, 2014)
- Harris v. State, 2013 WL 4858990 (Del. Sept. 10, 2013)
- Brown v. State, 2012 WL 4466314 (Del. Sept. 26, 2012)
- St. Louis v. State, 2012 WL 130877 (Del. Jan. 17, 2012)
- Robinson v. State, 704 A.2d 269, 271 (Del. 1998)

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