

Supreme Court of Delaware.

738 A.2d 238 (Del. 1999)

⊕ NANTICOKE MEM. HOSP. V. MARSHALL-STEELE

NANTICOKE MEMORIAL HOSP., INC. V. MARSHALL-STEELE. • NO. 312, 1999. • SUPREME COURT OF DELAWARE. •
SEPTEMBER 1, 1999. • APPEAL FROM THE SUPERIOR COURT, SUSSEX COUNTY, CA 98-10-001. APPEAL DISMISSED

Unpublished Opinion is below.

NANTICOKE MEMORIAL HOSPITAL, INC. and UNEMPLOYMENT INSURANCE APPEAL BOARD, Appellees Below-Appellants, v.
DOUGLAS MARSHALL-STEELE, Appellant Below-Appellee. No. 312, 1999. Supreme Court of Delaware. September 1, 1999.

Court Below — Superior Court of the State of Delaware, in and for Sussex County C.A. No. 98-10-001.

Before **WALSH, HOLLAND** and **BERGER**, Justices

ORDER

This first day of September 1999, it appears to the Court that:

(1) This is an appeal from a Superior Court decision dated June 18,

1999 that voided a decision of the Unemployment Insurance Appeal Board (the "Board") and remanded the matter to the Board for further proceedings. The employer, Nanticoke Memorial Hospital, Inc. ("Nanticoke"), filed its appeal on July 15, 1999. On July 16, 1999, the Clerk issued a notice directing Nanticoke to show cause why the appeal should not be dismissed pursuant to Supreme Court Rule 42, because the appeal is from an interlocutory order of the Superior Court.

(2) The Court has considered the responses of Nanticoke and the employee, Douglas Marshall-Steele ("Marshall-Steele"), to the notice to show cause and has concluded that the Superior Court's June 18, 1999 decision is an interlocutory and not a final order.¹ Nanticoke has failed to comply with the procedural requirements of Rule 42(c) and (d) and, absent compliance, this Court must decline to exercise its appellate jurisdiction.²

1. *Showell Poultry v. Delmarva Poultry Corp.*, Del. Supr., 146 A.2d 794, 795-96 (/case/showell-poult-v-delmarva-poult-corp#p795) □ (1958).

See also *Miller v. Suburban Propane Gas Corp.*, Del. Supr., 565 A.2d 913, 914 (/case/miller-v-suburban-propane-gas-corp#p914) □ (1989).

2. *Stroud v. Milliken Enterprises, Inc.*, Del. Supr., 552 A.2d 476, 481-82 (/case/stroud-v-milliken-enterprises-inc#p481) □ (1989).

(3) Marshall-Steele agrees that the matter was improperly appealed, but asks this Court to exercise its appellate jurisdiction in the interest of judicial economy. Parties may not convert an otherwise interlocutory order into a final order by consensual conduct or by representations of intention to take remedial action so as to render an otherwise less-than-final order final for purposes of appeal.³

3. *Id.* at 482.

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

BY THE COURT:

_____ /s/ Randy J. Holland, Justice

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