

[5/12/05 - 11:17 am] This morning's decision in State v. Vitiello makes it clear that a private citizen complainant has no independent right to take an appeal to the Appellate Division following the dismissal of a petty disorderly persons offense in Superior Court. The defendant in Vitiello was charged with a petty d/p by a private complainant. The defendant sought dismissal in Superior Court under the de minimis statute, NJSA 2C:2-11. The county prosecutor appeared on behalf of the State. When the defendant's application was granted by the assignment judge, the county prosecutor chose not to appeal. The private citizen complainant thereafter filed an appeal in the Appellate Division, challenging the propriety of the dismissal.

The Appellate Division dismissed the citizen complainant's appeal on the ground that, as a private citizen, he has no standing under the Rules of Court to bring such an appeal. The State, and only the State can bring an appeal, particularly where the matter has been handled by a public prosecutor. Unless the citizen complainant has been designated as a private prosecutor, he or she has no standing to bring an appeal.

A copy of State v. Vitiello is attached to this muni-mail.

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