

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P. 65.37

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|------------------------------|---|--------------------------|
| COMMONWEALTH OF PENNSYLVANIA | : | IN THE SUPERIOR COURT OF |
| | : | PENNSYLVANIA |
| v. | : | |
| | : | |
| RANDALL KEITH CURRY, | : | No. 1273 WDA 2013 |
| | : | |
| Appellant | : | |

Appeal from the Judgment of Sentence, February 12, 2013,
in the Court of Common Pleas of Mercer County
Criminal Division at No. CP-43-CR-0000132-2012

BEFORE: GANTMAN, P.J., FORD ELLIOTT, P.J.E., AND OLSON, J.

JUDGMENT ORDER BY FORD ELLIOTT, P.J.E.: **FILED JULY 29, 2014**

Randall Keith Curry has filed an appeal from the judgment of sentence reinstated on February 12, 2013. As we are without jurisdiction, we quash.

This appeal involves a profusion of procedural defects; we briefly review the most pertinent history. On June 19, 2012, appellant pled guilty to reckless driving, driving a vehicle at safe speed, disorderly conduct, and two counts of harassment. On July 13, 2012, the Honorable Robert G. Yeatts imposed judgment of sentence which did not include a term of imprisonment. In August of 2012, PennDot informed appellant of a six-month suspension of his operating privilege for the reckless driving violation and a ten-day suspension for the driving vehicle at safe speed violation.¹

¹ Appellant filed two appeals with the Commonwealth Court.

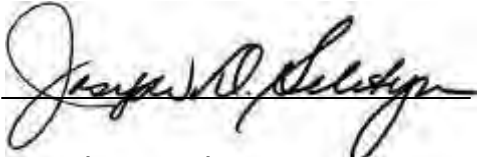
However, it was not until November 29, 2012, 139 days after sentencing, that appellant filed a petition to modify his plea agreement, **nunc pro tunc**. Appellant claimed he was unaware that a violation of reckless driving would lead to a mandatory 6-month suspension and his goal in reaching a plea bargain was to avoid such a consequence. On December 4, 2012, the trial court permitted appellant to withdraw his guilty plea to the offense of reckless driving and plead guilty to careless driving. The court found a manifest injustice was demonstrated by the fact that the loss of appellant's driver's license would result in the loss of his job.

Thereafter, PennDOT brought to the court's attention that it did not have jurisdiction to grant such relief. A hearing was held and by order entered February 12, 2013, the trial court acknowledged that it lacked jurisdiction to grant the relief requested in the **nunc pro tunc** petition. Judge Yeatts vacated the December 4, 2012 order and reinstated its original judgment of sentence. Appellant had 30 days from this date in which to appeal. Pa.R.A.P. 903(a).² Appellant's notice of appeal was not filed until July 30, 2013. Because this appeal is untimely, we are without jurisdiction to entertain it and we quash on that basis. **Commonwealth v. Wrecks**, 934 A.2d 1287, 1289 (Pa.Super. 2007).

Appeal quashed.

J. A11019/14

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/29/14

² Thereafter, on June 25, 2013, appellant filed an untimely petition for reconsideration, which was denied on July 3, 2013. **See** Pa.R.Crim.P. 720.