

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

GENE CARL BENCKINI

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 3200 EDA 2013

Appeal from the Order October 2, 2013  
In the Court of Common Pleas of Lehigh County  
Criminal Division at No(s): CP-39-CR-0003729-2005

BEFORE: GANTMAN, P.J., WECHT, J., and JENKINS, J.

JUDGMENT ORDER BY JENKINS, J.:

**FILED OCTOBER 01, 2014**

Gene Carl Benckini ("Appellant") appeals *pro se* from the Order of the Lehigh County Court of Common Pleas dismissing his probation violation as to his conviction at Docket No. CP-39-CR-0003729-2005. We dismiss this appeal for the following reasons.

The trial court conducted Appellant's probation revocation hearing on October 2, 2013. At that time, the trial court dismissed Appellant's probation violation on Docket No. CP-39-CR-0003729-2005.<sup>1</sup> Appellant then had thirty days, or until November 3, 2013,<sup>2</sup> to appeal. Pa.R.Crim.P.

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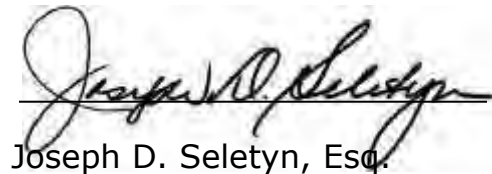
<sup>1</sup> The trial court did revoke Appellant's probation and resentence him on Docket No. CP-39-CR0002240-2006.

<sup>2</sup> The thirtieth day actually fell on November 1, 2013, a Saturday. Appellant therefore had until the following business day, Monday, November 3, 2013, to timely file his appeal. 1 Pa.C.S. § 1908.

720(a). On October 14, 2013, Appellant filed a motion for reconsideration. This motion did not toll Appellant's 30-day appeal period.<sup>3</sup> Pa.R.Crim.P. 708(E) ("The filing of a motion to modify sentence [imposed after a revocation] will not toll the 30-day appeal period."). Appellant did not file the instant appeal until November 18, 2013, and it is accordingly untimely.

Appeal dismissed. Case stricken from the October 7-8, 2014 argument list.

Judgment Entered.

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

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 10/1/2014

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<sup>3</sup> Accordingly, Appellant's appeal properly lies from the trial court's October 2, 2013 dismissal of his probation violation, not the October 23, 2013 denial of his motion for reconsideration.