

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
v.	:	
	:	
RONALD KUCHTA,	:	
	:	
Appellee	:	No. 209 WDA 2014

Appeal from the Order entered on January 15, 2014  
in the Court of Common Pleas of Westmoreland County,  
Criminal Division, No. CP-65-CR-0004816-2013

BEFORE: PANELLA, JENKINS and MUSMANNO, JJ.

MEMORANDUM BY MUSMANNO, J.:

**FILED JULY 28, 2014**

The Commonwealth of Pennsylvania appeals from the Order granting Ronald Kuchta ("Kuchta") entry into the Accelerated Rehabilitative Disposition ("ARD") program. We vacate and remand for further proceedings.

Kuchta pled guilty to simple assault for biting the arm of a woman caring for him. The trial court admitted Kuchta into ARD for a period of six months (non-reporting) on January 15, 2014. The Commonwealth did not recommend or move for Kuchta's admission to ARD.

The Commonwealth filed a timely Notice of Appeal. The trial court ordered the Commonwealth to file a Pa.R.A.P. 1925(b) concise statement. The Commonwealth filed a timely Concise Statement.

On appeal, the Commonwealth raises the following question for our review: “[Did] [t]he trial court err[] in granting ARD because a criminal defendant may be admitted to ARD only upon the recommendation of the Commonwealth[?]” Brief for Appellant at 3 (underlining omitted).

“The standard of review to be employed when considering the trial court’s denial of admission into [ARD] is an abuse of discretion standard. It logically follows that when reviewing an order directing admission into an ARD program, the standard remains the same.” ***Commonwealth v. Fleming***, 955 A.2d 450, 451 (Pa. Super. 2008).

Our restrictive approach to admission to ARD programs is intentional and purposeful, for it ensures that no criminal defendant will be admitted to ARD unless the party to the case who represents the Commonwealth, the district attorney, has made the determination that a particular case is best handled by suspending the prosecution pending the successful completion of a diversionary ARD program.

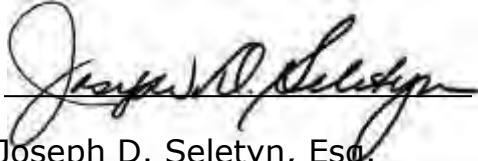
***Commonwealth v. Lutz***, 495 A.2d 928, 933 (Pa. 1985); ***see also*** Pa.R.Crim.P. 310 (vesting sole discretion regarding recommendation that a criminal defendant be admitted into ARD in the attorney of the Commonwealth).

Here, it is clear that the trial court abused its discretion by admitting Kuchta into ARD without a motion, a recommendation, or acquiescence from the Commonwealth. ***See*** Trial Court Opinion, 2/13/14, at 1-2 (wherein the trial court acknowledges that it abused its discretion in admitting Kuchta into ARD).

Based on the forgoing, we vacate and remand for further proceedings.

Order vacated; case remanded for proceedings; jurisdiction relinquished.

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: 7/28/2014