

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,)	
)	
v.)	C.A. Nos. 0612007132
)	0701011423
PETER KOSTYSHYN,)	
)	
Defendant,)	

Submitted: January 4, 2008
Decided: January 29, 2008

ORDER

COMES NOW, the Court finds and decides as follows:

1) Defendant Peter Kostyshyn was convicted and sentenced in Justice of the Peace Court No. 11 on October 19, 2007 for two counts of the following offenses:

(a) Violation of “*New Castle County Code § 0302 0083M*,” “Exterior Property Areas/Vehicles-Parking/Inoperable or Unregistered Vehicles,” in that he did permit to be openly stored on the premises a vehicle not properly registered and/or in operable condition (i.e., a red Pontiac Sunbird without tag displayed stored on the premises);

(b) Violation of “*New Castle County Code § 0302 0011 M*,” “Exterior Property Areas/Outside Storage of Debris,” in that he did permit to be openly stored

on the premises items to be considered debris (i.e. cinder blocks, old sink, tub, pieces of plywood, tree debris, etc.); and

(c) Violation of “*New Castle County Code § 0302 0042M*,” “Prohibited Growth of Weeds-Grass/Developed Parcels,” in that he did permit grass and weed to exceed a height of 8 inches on residentially zoned property.

2) The offenses in Case No. 0612007132 having occurred on November 15, 2006 and the offenses in Case No. 0701011423 having occurred on January 3, 2007.

3) In Case No. 0612007132, Peter Kostyshyn was sentenced to pay fines and assessments in the amount of \$846.00.

4) In Case No. 0701011423, Peter Kostyshyn was also sentenced to pay fines and assessments in the amount of \$846.00.

5) In each case, the fines were to be paid on an installment basis or could be discharged by participating in the work referral program.

6) On October 26, 2007, Peter Kostyshyn docketed an appeal of both cases to the Court of Common Pleas in and for New Castle County, pursuant to *11 Del. C. § 5917(b)*.

7) Peter Kostyshyn did not pay with the appeal the filing costs of “\$125.00 per case as required by *Court of Common Pleas Criminal Rule 58*. He filed an application to proceed In Forma Pauperis.

8) On November 2, 2007, the Court denied the application to proceed In Forma Pauperis and ordered the fees paid by November 9, 2007. Notice of the

Court's Order was mailed to defendant on November 5, 2007. The Defendant denied he received notice of the Court denying her petition.

9) Notwithstanding the Court's Order and failure of defendant to pay the required fee, the Clerk's Office in error scheduled both cases on December 7, 2007 for arraignment.

10) Arraignment was scheduled for January 4, 2008 where the Court again addressed the matter of defendant's failure to pay the filing fee as required by *Criminal Rule 58*.

11) On January 4, 2008 following defendant's renewed argument to proceed In Forma Pauperis, the Court for a second time denied the motion and ordered that the fee be paid within ten (10) days which would have been January 14, 2008.

12) Defendant failed to pay the filing fee as required by *Criminal Rule 58*, even after the petition to proceed In Forma Pauperis was denied.

Accordingly, it is hereby ordered that the appeal is Dismissed for the following reasons:

- (1) Failure of defendant to timely pay the filing fee as required by the rule after denial of his petition to proceed In Forma Pauperis; and

The case is remanded to Justice of the Peace Court No. 11 to proceed consistent with its Sentencing Order of October 18, 2008.

SO ORDERED,

Alex J. Smalls
Chief Judge

Cc: Judge Donald Callendar
J.P. Court No. 11

Kostyshyn-ORD Jan 08