

IN THE SUPERIOR COURT OF DELAWARE

RICHARD A. AVERSA, :
 :
 Appellant. : I.D. No. 1601003130
 : In and for Kent County
 v. :
 :
 STATE OF DELAWARE, :
 :
 Appellee. :

ORDER

Submitted: November 10, 2016

Decided: December 1, 2016

On this 1st day of December, 2016, after considering the record below and the briefs of the parties, it appears that:

1. On May 3, 2015, a Kent County Court of Common Pleas jury convicted Appellant Richard A. Aversa (hereinafter “Mr. Aversa”) of failure to stop at a stop sign, in violation of 21 *Del. C.* § 4164(a). After a jury convicted him, the Court of Common Pleas fined Mr. Aversa \$25.

2. Mr. Aversa appeals the conviction to this Court alleging, *inter alia*, newly discovered evidence, violations of his right to counsel, and erroneous evidentiary decisions of the trial court. The written Court of Common Pleas decision appealed by Mr. Aversa examined his present claims and included the trial court’s consideration of a motion pursuant to Court of Common Pleas Criminal Rule 61. The Court of Common Pleas denied all claims of Mr. Aversa seeking to overturn his conviction.

3. The State, in its Answering Brief, alleges lack of Superior Court jurisdiction to hear Mr. Aversa’s appeal. Pursuant to Article IV, Section 28, of the Delaware Constitution of 1897, an appeal to the Superior Court is authorized “in all cases in

which the sentence shall be imprisonment exceeding one (1) month, or a fine exceeding One Hundred Dollars (\$100).” Furthermore, pursuant to this Constitutional provision, although additional jurisdiction may be conferred by the General Assembly by statute, the operative statutory provision references only the constitutional appeal jurisdiction conferred by Section 28 of Article IV.¹ Here, Mr. Aversa was not sentenced to imprisonment and the fine imposed was less than the appeals threshold of one hundred dollars. Accordingly, the Superior Court does not have jurisdiction to consider Mr. Aversa’s appeal regarding this traffic violation.

WHEREFORE, Appellant Richard Aversa’s appeal is DISMISSED for lack of jurisdiction.

/s/Jeffrey J Clark
Judge

¹ See 11 Del. C. § 5301(c)(providing for an appeal of any Court of Common Pleas “order, rule, decision, judgment or sentence . . . to the Superior Court . . . as provided in Section 28, Article IV of the Constitution of the State”).