

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania :
 :
 v. : No. 2597 C.D. 2009
 :
 Ronald V. Selby, :
 :
 Appellant :

PER CURIAM

ORDER

AND NOW, this 22nd day of July, 2010, Appellant Ronald V. Selby's Application for Reconsideration is granted to the extent that the second to last paragraph of the memorandum opinion filed May 17, 2010, at No. 2597 C.D. 2009 is changed to read as follows:

Finally, the trial court did not err by refusing Selby's request for appointed counsel. In summary cases, there is no right to counsel unless the defendant is without financial resources and there is a likelihood that imprisonment will be imposed. *Commonwealth v. Stock*, 545 Pa. 13, 679 A.2d 760 (1996); Pa. R. Crim. P. 122(A)(1).¹ In the present case, the Criminal Complaint

¹ Pa. R. Crim. P. 122(A)(1) provides:

Counsel shall be appointed in all summary cases, for all defendants who are without financial resources or who are otherwise unable to employ counsel when there is a likelihood that imprisonment will be imposed.

requests only compliance with the Ordinance, payment of court costs, and payment of a fine. Because the Criminal Complaint does not request imprisonment, there is no likelihood that Selby may be imprisoned for his violation of the Ordinance.²

² Selby also argues that the Ordinance is unconstitutional because it provides for imprisonment for non-payment of a fine. Pa. R. Crim. P. 456, however, provides that if the defendant refuses to pay a fine, he or she can only be imprisoned if, after hearing, it is determined that the defendant has the money to pay the fine and refuses. It is akin to civil contempt.