

[J-53-2013]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

CASTILLE, C.J., SAYLOR, EAKIN, BAER, TODD, McCAFFERY, STEVENS, JJ.

COMMONWEALTH OF PENNSYLVANIA,	:	No. 9 MAP 2013
	:	
Appellee	:	Appeal from the order of Superior Court
	:	dated August 28, 2012 at No. 463 MDA
	:	2012 affirming the order of the
v.	:	Lackawanna County Court of Common
	:	Pleas, Criminal Division, dated January
	:	19, 2012 at No. CP-35-CR-0001917-2009.
ANTHONY ROSE,	:	
	:	
	:	SUBMITTED: July 30, 2013
Appellant	:	

ORDER

PER CURIAM

DECIDED: December 17, 2013

AND NOW, this 17th day of December, 2013, as specified herein, the Superior Court's decision, which affirmed the denial of Appellant Anthony Rose's petition filed under the PCRA,¹ is **VACATED** and the case is **REMANDED** to the Court of Common Pleas of Lackawanna County for further proceedings.

The record certified to this Court contains a pro se notice of direct appeal from Appellant's judgment of sentence, which the Lackawanna County Court of Common Pleas inexplicably failed to docket, time-stamp, or otherwise certify for review. See Pa.R.A.P. 905(a) ("Upon receipt of the notice of appeal the clerk shall immediately stamp it with the date of receipt, and that date...shall be shown on the docket.");

¹ Post Conviction Relief Act (PCRA), 42 Pa.C.S. §§ 9541-46.

Pa.R.A.P. 905(b) (“The clerk shall immediately transmit to the prothonotary of the appellate court...a copy of the notice of appeal showing the date of receipt[.]”). Pursuant to our general supervisory and administrative authority over all of the lower courts, we direct the Court of Common Pleas to ensure the clerk of court abides by our explicit rules of appellate procedure, as set forth in Pennsylvania Rule of Appellate Procedure 905, supra, as it pertains to Appellant’s notice of appeal from his judgment of sentence. See Pa. Const. art. V, § 10;² In re Administrative Order No. 1-MD-2003, 594 Pa. 346, 936 A.2d 1 (2007) (holding clerk of courts, similar to prothonotaries, are clerks of the court of common pleas with no judicial power); Payne v. Commonwealth Dept. of Corrections, 582 Pa. 375, 384, 871 A.2d 795, 801 (2005) (“This Court’s power to establish rules of procedure for state courts is exclusive.”) (citing Commonwealth v. Morris, 565 Pa. 1, 771 A.2d 721 (2001)); Commonwealth v. Morgan, 469 Pa. 35, 364 A.2d 891, 892 n. 2 (1976) (trial courts have a “responsibility to supervise their personnel and to assure that those persons under their charge responsibly and expeditiously perform their assigned tasks”).

² **Article V, Section 10-Judicial Administration.**

(a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts [...].

(c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts...and supervision of all officers of the Judicial Branch [...].

Thereafter, a determination of timeliness regarding Appellant's direct appeal from his judgment of sentence, and whether a remand for an evidentiary hearing is warranted with regard thereto, may be made by the courts below. See Commonwealth v. Jones, 549 Pa. 58, 700 A.2d 423 (1997) (explaining prisoner mailbox rule and indicating a remand for an evidentiary hearing may be warranted where timeliness is at issue).

Accordingly, it is hereby **ORDERED** that the Superior Court's decision which is before us for review is hereby **VACATED** and the case is **REMANDED** to the Lackawanna County Court of Common Pleas for further proceedings. Jurisdiction is relinquished.

Mr. Justice Saylor files a dissenting statement in which Mr. Chief Justice Castille and Madame Justice Todd join.