

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

STATE OF DELAWARE,)	
)	
Plaintiff,)	
)	
v.)	Case No. No. 0012007365
)	Cr.A. Nos. N01-02-097
PETER KOSTYSHYN,)	and N01-02-0098
)	
Defendant.)	

Submitted: March 22, 2002
Decided: April 23, 2002

ORDER
ON DEFENDANT'S MOTION FOR A NEW TRIAL

At the conclusion of a jury trial on March 15, 2002, Peter Kostyshyn was convicted in the Court of Common Pleas for New Castle County for the offenses of Terroristic Threatening and Offensive Touching. He was sentenced immediately following the jury verdict. For the Terroristic Threatening offense, the Court imposed a sentence of which included a fine in the amount of \$250, and commitment at Level 5 for 60 days, suspended for one-year probation at Level 2. It also provided no contact with the victim and evaluation for emotional and psychological problems. For the offense of Offensive Touching, the sentence

imposed included a fine in the amount of \$250, and commitment of 30 days at Level 5, suspended for one year at Level 2 probation.

On March 22, 2002, Peter Kostyshyn filed a motion for a new trial, arrest of judgment, correction of sentence and stay of execution. Before the Court had an opportunity to consider these motions, on March 28, 2002, Peter Kostyshyn filed notice of appeal to the Superior Court.

While a motion seeking a new trial under Court of Common Pleas *Civil Rule 33* would toll the time period for appeal in the Superior Court, I need not consider this issue here, because a notice of appeal was filed March 28, 2002. The filing of the notice of appeal divests the Court of any further jurisdiction in these proceedings. *State v. Bloomingdale*, No. 9906013775, Del. Super., Silverman, J. 2001 WL 845758 (Del. Super.).

Accordingly, since this Court no longer has jurisdiction in these matters, the motion for a new trial is hereby dismissed. Further, the Court has no jurisdiction to consider the other motions, and they are also dismissed.

SO ORDERED this 23rd day of April, 2002

Alex J. Smalls
Chief Judge