

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellant

v.

KAZIMIR CRAIG GROHOWSKI,

Appellee

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1188 MDA 2011

Appeal from the Order of June 23, 2011,
in the Court of Common Pleas of Northumberland County,
Criminal Division, at No. CP-49-CR-0000706-2004

BEFORE: SHOGAN, OTT and COLVILLE*, JJ.

MEMORANDUM BY COLVILLE, J.:

FILED MAY 22, 2013

The Commonwealth appeals the order granting judgment of acquittal.^{1,2} We vacate the court's order and remand this case with instructions.

This matter has a somewhat convoluted procedural history but it will suffice to recount that, after Kazimir Grohowski was convicted and

* Retired Senior Judge assigned to the Superior Court.

¹ In addition to granting judgment of acquittal, the order contained a number of other parts that were related, directly or indirectly, to the acquittal. Our decision today vacates the entire order.

² When this matter was first before us, we remanded it with instructions that the trial court supplement the certified record. The trial court did so and the case has now returned to us.

sentenced in connection with several offenses, the trial court granted him the right to file post-sentence motions *nunc pro tunc*. The motions were filed on January 26, 2011. On June 23, 2011, the court entered an order denying part of Grohowski's post-sentence requests and granting part of them. Most notably, the court granted Grohowski a judgment of acquittal. Within thirty days of that order, the Commonwealth filed this appeal in which it raises several issues. One of those issues is that the trial court's order in question was a nullity because it was issued after the court lost jurisdiction over this case. Because we resolve this issue in the Commonwealth's favor, it will be unnecessary for us to address any other claims now before us.

After Grohowski filed his *nunc-pro-tunc* post-sentence motions, the trial court had one hundred twenty days to decide them unless the court properly granted an extension of that period. Pa.R.Crim.P. 720(B)(3)(a), (b). In this case, the court did not grant such an extension and, as such, May 26, 2011, was the deadline for the court to decide the motions.

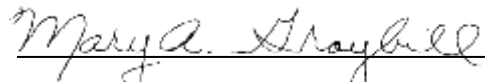
On May 26, 2011, because the court had not ruled on the post-sentence motions, they were denied by operation of law. ***Commonwealth v. Santone***, 757 A.2d 963, 966 (Pa. Super. 2000); Pa.R.Crim.P. 720(B)(3)(a). At that point, the trial court lost jurisdiction to decide the motions. ***Santone***, 757 A.2d at 966. Therefore, the court's order entered June 23, 2011—the order purporting to grant a judgment of acquittal and otherwise to decide Grohowski's motions—was a legal nullity except to the extent it was an order the Commonwealth has now appealed.

Commonwealth v. Bentley, 831 A.2d 668, 670 (Pa. Super. 2003);
Santone, 757 A.2d at 966.

In light of our foregoing discussion, we find that Grohowski's post-sentence motions were denied by operation of law on May 26, 2011. Accordingly, we vacate the trial court's order now on appeal and remand with instructions that the trial court reinstate Grohowski's judgment of sentence. As we noted *supra*, our resolution of this case obviates the need to address any other issues at this point.

Order vacated. Case remanded with instructions. Jurisdiction relinquished.

Judgment Entered.


Deputy Prothonotary

Date: 5/22/2013