

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA, : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

Appellee

v.

MICHAEL J. MONTROY,

Appellant

No. 1431 WDA 2012

Appeal from the Order Dated August 10, 2012,
in the Court of Common Pleas of Erie County,
Criminal Division, at No(s): CP-25-CR-0003155-2008.

BEFORE: BENDER, MUNDY, and STRASSBURGER*, JJ.

JUDGMENT ORDER BY STRASSBURGER, J DATE: May 3, 2013

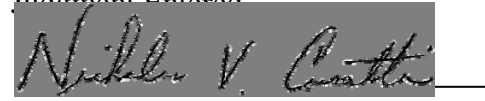
Michael J. Montroy (Appellant) appeals from the PCRA court's August 10, 2012 order denying his *pro se* motion to modify and reduce sentence without prejudice because it did not have jurisdiction over the matter while Appellant's petition for review was pending before our Supreme Court. It is well-settled that "when an appellant's PCRA appeal is pending before a court, a subsequent PCRA petition cannot be filed until the resolution of review of the pending PCRA petition by the highest state court in which review is sought, or upon the expiration of the time for seeking such review." ***Commonwealth v. Lark***, 746 A.2d 585, 588 (Pa. 2000). Accordingly, we affirm the PCRA court's order dismissing Appellant's July 9, 2012 motion.

Order affirmed. Jurisdiction relinquished.

*Retired Senior Judge assigned to the Superior Court.

J-S17033-13

Judgment Entered

A handwritten signature in cursive script, appearing to read "Nicholas V. Costello", is written over a grey rectangular redaction box. A horizontal line extends from the end of the signature to the right.

Deputy Prothonotary

Date: 5/3/2013