

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellant

v.

ROBERT PAUL PIATEK,

Appellee

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 167 WDA 2013

Appeal from the Order Entered December 19, 2012
In the Court of Common Pleas of Westmoreland County
Criminal Division at No(s): CP-65-CR-0003468-2011

BEFORE: BENDER, P.J., FORD ELLIOTT, P.J.E., BOWES, J., GANTMAN, J.,
DONOHUE, J., ALLEN, J., LAZARUS, J., OTT, J., and WECHT, J.

MEMORANDUM BY BENDER, P.J.

FILED DECEMBER 18, 2013

Appellant, the Commonwealth of Pennsylvania, appeals from the order entered on December 19, 2012, which states that Appellee, Robert Paul Piatek, is not required to register as a sex offender under Act 111 of 2011, 42 Pa.C.S. § 9799, *et. seq.*, also known as the Sex Offender Registration and Notification Act (SORNA). The Commonwealth contends that the trial court erred in determining that Piatek is not subject to the registration requirements of SORNA. After careful review, we conclude that the court did not err when it ordered specific enforcement of the parties' plea bargain. Accordingly, we affirm.

Piatek negotiated a guilty plea to the crimes of indecent assault and corruption of minors in September 2011, and this plea was accepted by the trial court on April 27, 2012. At the time of Piatek's plea, a defendant

convicted of aggravated indecent assault was subject to a lifetime registration requirement under Megan's Law, 42 Pa.C.S. § 9791, *et. seq.* This charge was withdrawn by the Commonwealth in the instant case pursuant to the plea agreement reached by the parties to this appeal. None of the crimes to which Piatek pled guilty required registration under Megan's Law at the time his plea was entered. This fact was acknowledged on the record during his plea colloquy. N.T. Guilty Plea, 4/27/12, at 2.

SORNA was enacted on December 20, 2011, and became effective on December 20, 2012. A conviction for indecent assault requires a defendant under correctional supervision on the effective date of SORNA to register with the State Police for 25 years. 42 Pa.C.S. § 9799.15(a)(2). Therefore, Piatek ostensibly became subject to a new registration requirement under SORNA.

On December 19, 2012 the trial court entered an order stating that Piatek was not subject to the registration requirements of SORNA. The Commonwealth filed a timely notice of appeal from that order.

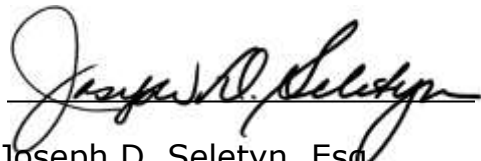
On October 21, 2013, this Court issued an order listing this case for consideration *en banc*. Similar orders were issued for several other cases presenting the same issue as in the instant case. On _____, this Court filed its opinion in one of those cases, ***Commonwealth v. Hainesworth***, ___ A.3d ___ (Pa. Super. 20___). This Court held in ***Hainesworth*** that where a defendant negotiated for non-registration as a term of his plea bargain, he was entitled to the benefit of that bargain. Accordingly, we affirmed the trial

court's order that Hainesworth was not required to register as a sex offender.

We conclude that Piatek likewise entered into a plea bargain that contained a negotiated term of non-registration. Under the analysis adopted by this Court in *Hainesworth, supra*, we conclude it was not error for the trial court to order specific enforcement of Piatek's bargain, and we affirm the trial court's order.

Order ***affirmed***.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/18/2013