

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

K. F.,

Appellee

v.

TIMOTHY RODENIUS,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1796 WDA 2013

Appeal from the Order Entered September 27, 2013  
In the Court of Common Pleas of Armstrong County  
Civil Division at No(s): 2013-0851 - Civil

BEFORE: BENDER, P.J.E., WECHT, J., and PLATT, J.\*

MEMORANDUM BY BENDER, P.J.E.:

**FILED July 1, 2014**

Timothy Rodenius (Appellant), acting *pro se*, purports to appeal from the order entered on September 27, 2013, that denied his motion for reconsideration/modification of the trial court's July 16, 2013 final protection from abuse (PFA) order. We quash this appeal for lack of jurisdiction.

The trial court provides the following background information concerning this case:

On August 22, 2012, [Appellant] was charged with Sexual Abuse of Children – Photographing, videotaping, depicting on computer or filming sexual acts, 18 Pa.C.S.A. § 6312(b) (Count 1), Sexual Abuse of Children – Child Pornography, 18 Pa.C.S.A. § 6312(d)(1) (Count 2), and Corruption of Minors, 18 Pa.C.S.A. § 6301(a) Count 3). [K. F. (Appellee)] was the alleged victim in all of the crimes. [Appellant] pled guilty to Counts 1 and 2 and

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\* Retired Senior Judge assigned to the Superior Court.

ultimately was sentenced to 329 days' time served on July 1, 2013. [Appellee] filed her Petition for Protection from Abuse the same day.

Trial Court's Opinion, 12/20/13, at 1-2 (footnote omitted).

In her PFA petition, Appellee asserted that Appellant had taken sexually explicit photographs of her while she was a minor. She also contended that Appellant continued to contact her and harass her. Following a hearing that Appellant failed to attend, the court entered the final PFA order, which was effective for a three-year period from July 16, 2013, the date of the hearing, until July 16, 2016. No appeal was filed from the July 16, 2013 order. Rather, Appellant filed a document entitled "Motion for Reconsideration and Motion for Modification" on September 27, 2013, that was denied by the court on the same day.<sup>1</sup> Appellant then filed an appeal presently before this Court on October 22, 2013, which was within thirty days of the denial of his motion for reconsideration/modification.

Upon receipt of Appellant's notice of appeal, this Court issued a rule to show cause why the appeal should not be quashed as untimely. We cited ***Valentine v. Wroten***, 580 A.2d 757, 758 (Pa. Super. 1990), which holds that an appeal will not lie from a denial of reconsideration. In response, Appellant claimed that his petition sought modification of the final PFA order pursuant to Pa.R.C.P. 1901.8(c), which he asserts "is NOT limited to 30

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<sup>1</sup> Additionally, on September 27, 2013, Appellant filed a request that counsel be appointed to represent him in this matter. The court likewise denied this motion on the same day.

days....” Response to Rule to Show Cause (entitled “Appeal is from Denial of Modification”), 1/17/14, at 1. Despite Appellant’s contention that his September 27, 2013 filing with the trial court was a modification petition, not a request for reconsideration, the assertions contained in his six-page response to this Court’s show cause order essentially refers to the PFA order, claiming *inter alia* that his due process rights were violated because he did not have an opportunity to testify at the PFA hearing. As noted previously, Appellant did not attend the PFA hearing on July 16, 2013, although he had had proper notice. He also attacks Appellee’s credibility, and discusses evidence connected to his related criminal case, which is not before this Court in this appeal. He concludes by stating that “[t]his is not a normal PFA case, but involves abuse by the government, child abusers, and liars. You have seen evidence that the facts are suppressed to distort truth and unfairly persecute me.” ***Id.*** at 6.

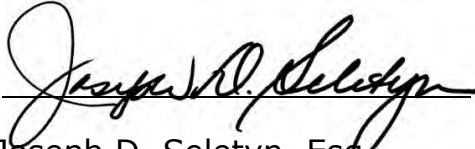
It is apparent to this Court that Appellant confuses reconsideration with modification. Although he terms his filing as a modification, in reality he is attacking the PFA order that requires that he not harass or threaten Appellee for a three-year period. Accordingly, having failed to appeal from the final PFA order within the thirty-day appeal period required by Pa.R.A.P. 903(a), Appellant’s appeal must be quashed. ***See Valentine***, 580 A.2d at 758 (“Since the untimely filing of the appeal goes to the jurisdiction of this court, we have no choice but to quash the appeal.”). ***Compare Florian v. Florian***, 689 A.2d 968, 971-72 (Pa. Super. 1997) (stating “a petition to

modify an order of support cannot be a substitute for an appeal”);

***Boullianne v. Russo***, 819 A.2d 577, 580 (Pa. Super. 2003) (same).

Appeal quashed.

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: 7/1/2014