

2014 PA Super 140

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

HECTOR RIVERA,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1919 EDA 2013

Appeal from the Judgment of Sentence entered May 9, 2013,
in the Court of Common Pleas of Wayne County,
Criminal Division, at No(s): CP-64-CR-0000002-2013

BEFORE: ALLEN, JENKINS, and FITZGERALD*, JJ.

CONCURRING STATEMENT BY ALLEN, J.:

FILED JULY 03, 2014

I concur in result only.

In ***Commonwealth v. Pride***, 380 A.2d 1267 (Pa. Super. 1977), in response to the dissent's characterization of the trial court's sentencing order, this Court stated:

[T]he trial court's sentencing order did not condition probation on repayment of \$500.00. Our Court is bound by terms of the sentence officially appearing on the record. ***Commonwealth v. Silverman***, 442 Pa. 211, 275 A.2d 308 (1971). Accordingly, we may not redefine the reimbursement order as a condition of probation.

Pride, 380 A.2d at 1270 (footnote omitted). My review of the record reveals that, like the facts of ***Pride***, the written sentencing order at issue did not specifically provide that the \$500.00 payment to the Public Defender's

*Former Justice specially assigned to the Superior Court.

Office was a condition of Appellant's probation. It is for this reason that I join the Majority's disposition in this case.

Nevertheless, unlike the Majority, I do not read **Pride** as necessarily foreclosing a monetary payment to the Public Defender's Office as a condition of a probationary sentence. In **Pride**, because the sentencing order did not specifically impose the monetary payment as a condition of probation, the majority found the ordered payment was not statutorily authorized. **Pride**, 380 A.2d at 1270 (holding that "[t]here is not statutory authority to support the [trial] court's order of reimbursement to the public defender"). **Compare Commonwealth v. Hall**, 80 A.3d 1204 (Pa. 2013) (explaining that "a condition requiring the defendant to take some measure of financial responsibility for the consequences of his criminal conduct may be reasonably related to the rehabilitation that probation is designed to foster").

In sum, because the trial court's written sentencing order did not specifically designate the payment of \$500.00 to the Public Defender's Office as a condition of Appellant's probation, I agree with the Majority's decision to vacate Appellant's sentence and remand for resentencing.