

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

MICHAEL PISKANIN, JR.,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 3149 EDA 2013

Appeal from the Order October 15, 2013
In the Court of Common Pleas of Lehigh County
Criminal Division at No(s): CP-39-CR-0002072-2004

BEFORE: FORD ELLIOTT, P.J.E., BOWES, and SHOGAN, JJ.

MEMORANDUM BY BOWES, J.:

FILED JUNE 23, 2014

Michael Piskanin, Jr. appeals from the October 15, 2013 order denying his petition to disqualify the Office of District Attorney of Lehigh County from further participating in this criminal matter. We quash this appeal.

On March 18, 2004, Appellant was charged with numerous offenses in connection with a criminal enterprise involving his creation of counterfeit driver's licenses and payroll checks. A jury convicted him of sixty-nine counts of identity theft and one count each of theft by deception and receiving stolen property. On July 8, 2005, Appellant received an aggregate sentence of seven to fourteen years imprisonment, and we affirmed the judgment of sentence. ***Commonwealth v. Piskanin***, 986 A.2d 1262 (Pa.Super. 2009) (unpublished memorandum). Appellant thereafter filed an unsuccessful PCRA petition, and, on appeal, we affirmed. ***Commonwealth***

v. Piskanin, 37 A.3d 1233 (Pa.Super. 2011) (unpublished memorandum), *appeal denied*, 61 A.3d 191 (Pa. 2013). On March 12, 2013, Appellant filed a second motion for PCRA relief based upon newly-discovered evidence, and he claimed that certain members of this Court had accepted bribes to deprive him of due process. That petition was denied on April 2, 2013, and we affirmed that denial on December 24, 2013. **Commonwealth v. Piskanin**, 2013 PA Super LEXIS 5879 (Pa.Super. 2013)¹ (unpublished memorandum, 1153 EDA 2013). Appellant's petition for allowance of appeal from the December 24, 2013 memorandum is pending at 253 MAL 2014.

On October 15, 2013, while the appeal at 1153 EDA was pending in this Court, Appellant presented a motion to the trial court to disqualify the district attorney. The trial court denied that motion on December 11, 2013, and this appeal followed. We conclude that the trial court lacked jurisdiction to entertain the motion for disqualification.

With exceptions that are inapplicable herein, "after an appeal is taken . . . the trial court . . . may no longer proceed further in the matter." Pa.R.A.P. 1701(a). Thus, once an appeal has been properly filed from a final order, the trial court has no authority to entertain motions in connection with the criminal proceeding. **Jones v. Commonwealth**, 434 A.2d 1197, 1200 (Pa. 1981) (Commonwealth appeal "from the Suppression Order deprived

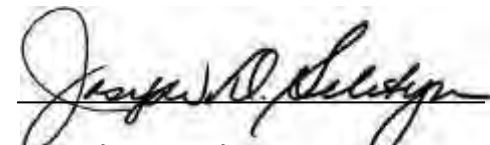
¹ We were unable to find the Atlantic Third Reporter citation for this adjudication.

the trial court of jurisdiction to proceed in the matter”); **Commonwealth v Thirkield**, 457 A.2d 954 (Pa.Super. 1983) (since Commonwealth had filed an appeal from a pretrial suppression order, the trial court did not have jurisdiction to rule upon motion for extension of time under former Pa.R.Crim.P. 1100 (now Pa.R.Crim.P. 600) while appeal was pending).

Herein, Appellant filed his motion to disqualify the Office of District Attorney of Lehigh County from participating in this matter while the appeal at 1153 EDA 2013 was pending. The trial court did not have jurisdiction to render a ruling on that motion as we had jurisdiction over this matter at that point. Likewise, we lack jurisdiction to entertain this appeal since this criminal matter is now within the jurisdiction of our Supreme Court, where Appellant’s petition for allowance of appeal remains pending at 253 MAL 2014.

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: 6/23/2014