

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

DYSHAN T. AURSBY

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 42 EDA 2014

Appeal from the Judgment of Sentence November 21, 2013  
In the Court of Common Pleas of Philadelphia County  
Criminal Division at No(s): CP-51-CR-0001332-2010  
MC-51-CR-0001332-2010

BEFORE: GANTMAN, P.J., FORD ELLIOTT, P.J.E., and JENKINS, J.

MEMORANDUM BY JENKINS, J.:

**FILED MAY 09, 2016**

Appellant Dyshan T. Aursby purports to appeal from a November 21, 2013 judgment of sentence entered in the Philadelphia County Court of Common Pleas at docket number MC-51-CR-0001332-2010.<sup>1</sup> Because there was no such judgment of sentence entered at that docket, we quash this appeal.

On April 19, 2010, Appellant pled guilty to knowing and intentional possession of a controlled substance<sup>2</sup> at docket number MC-51-CR-0001332-

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<sup>1</sup> The appeal paragraph also lists docket number CP-51-CR-0001332-2010. That docket number, however, is not associated with Appellant.

<sup>2</sup> 35 Pa.C.S. § 780-113(a)(16).

2010. On that same date, Appellant pled guilty to possession with intent to deliver a controlled substance<sup>3</sup> at docket number CP-51-CR-0002354-2010.

The trial court sentenced Appellant to 12 months' intermediate punishment at docket number MC-51-CR-0001332-2010. At docket number CP-51-CR-0002354-2010, the trial court sentenced Appellant to 12 months' intermediate punishment followed by two years' probation.

In May, 2013, at docket number CP-51-CR-0001044-2012, a jury found Appellant guilty of attempted murder, aggravated assault, robbery -- inflict serious bodily injury, and conspiracy to commit aggravated assault. On July 26, 2013, the trial court imposed an aggregate sentence of 12½ to 25 years' imprisonment.

On November 21, 2013, as a result of the May 2013 convictions, the trial court found Appellant in violation of his probation at docket number CP-51-CR-0002354-2010 and sentenced Appellant to 4 to 8 years' incarceration, to be served consecutive to the sentence imposed for the new convictions.<sup>4</sup>

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<sup>3</sup> 35 Pa.C.S. § 780-113(a)(30).

<sup>4</sup> At the sentencing hearing, Appellant also pled guilty to another count of possession of a controlled substance at docket number MC-51-CR-0022156-2011. He received no further penalty for this conviction, and did not file a notice of appeal.

On December 20, 2013, Appellant filed separate notices of appeal at both docket number CP-51-CR-0002354-2010 and docket number MC-51-CR-0001332-2010.<sup>5</sup> This Court affirmed the judgment of sentence at docket number CP-51-CR-0002354-2010 on June 3, 2015. ***Commonwealth v. Aursby***, 40 EDA 2014 (Pa.Super. filed June 3, 2015) (unpublished memorandum).

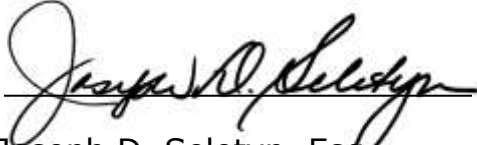
The appeal filed at docket MC-51-CR-0001332-2010 is now before us. The November 21, 2013 judgment of sentence was at docket CP-51-CR-0002354-2010, not docket MC-51-CR-0001332-2010. Appellant has not been sentenced at docket MC-51-CR-0001332-2010 since April 19, 2010. Accordingly, there is no final order at MC-51-CR-0001332-2010 from which Appellant could timely appeal. Pa.R.A.P. 341 (“an appeal may be taken as of right from any final order of an administrative agency or lower court”); Pa.R.A.P. 301 (“no order of a court shall be appealable until it has been entered upon the appropriate docket in the lower court”); Pa.R.A.P. 903 (“the notice of appeal required by Rule 902 (manner of taking appeal) shall be filed within 30 days after the entry of the order from which the appeal is taken”).

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<sup>5</sup> Appellant also filed a separate notice of appeal following his conviction for attempted murder and related charges at docket CP-51-CR-0001044-2012. This Court affirmed the judgment of sentence on June 17, 2015. ***Commonwealth v. Aursby***, No. 3601 EDA 2013 (Pa.Super. filed June 17, 2015).

Appeal quashed.<sup>6</sup>

Judgment Entered.

A handwritten signature in black ink, reading "Joseph D. Seletyn". The signature is written in a cursive style and is positioned above a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 5/9/2016

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<sup>6</sup> Counsel's application to withdraw as counsel is denied as moot.