

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

ANGELA M. CAVALIERE

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 3313 EDA 2012

Appeal from the Order Entered October 11, 2012
In the Court of Common Pleas of Montgomery County
Criminal Division at No(s): CP-46-CR-0001464-2012

BEFORE: BOWES, J., LAZARUS, J., and WECHT, J.

MEMORANDUM BY LAZARUS, J.

FILED DECEMBER 04, 2013

Angela M. Cavaliere appeals from an order imposed by the Court of Common Pleas of Montgomery County, which revoked her unsecured bail, instituted a new cash bail, and directed her to undergo a competency evaluation. After review of the record, we are constrained to quash.

On November 17, 2011, Cavaliere was arrested and charged with stalking,¹ harassment,² and terroristic threats³ with regard to her alleged harassment of her ex-husband's new girlfriend. Initially, bail was set at \$20,000 unsecured. On August 31, 2012, the Commonwealth filed a Motion

¹ Pa.C.S. 18 § 2709.1(a)(2).

² Pa.C.S. 18 § 2709(a)(3)&(7).

³ Pa.C.S. 18 § 2706(a)(1).

to Revoke/Increase Bail, asserting that the police had issued another harassment citation against Cavaliere, of which she was found guilty on August 22, 2012. The motion also mentioned additional allegations of harassment.

A hearing took place on October 11, 2012. After testimony from police officers, the victim, and Cavaliere, the trial court determined that the \$20,000 unsecured bail was insufficient to keep Cavaliere from violating her bail conditions. Accordingly, the court revoked her unsecured bail and imposed \$1,500 cash bail. Additionally, due to Calvaliere's bizarre and uncontrolled behavior at the hearing, the court ordered Cavaliere to undergo a mental health evaluation.

On October 19, 2012, Cavaliere, through her counsel, filed a Motion to Rescind and Vacate the Order of October 12, 2012, arguing that it was improper to revoke Cavaliere's bail and order her to undergo a mental health evaluation. The trial court never responded to this motion.

On November 9, 2012, Cavaliere, through her counsel, contemporaneously filed a petition for review and a notice of appeal. We denied her petition for review. The order read as follows:

The Petitioner's "Petition For Review" is DENIED without prejudice to apply to the trial court for relief. **See** Pa.R.A.P. 1762(b) (1) (applications relating to bail when no appeal is pending shall ordinarily first be presented to the lower court). If Appellant is denied relief, the trial court shall file an opinion stating its reasons, and Appellant shall be permitted to re-apply to this Court for relief. **See** Pa.R.A.P. 1762(g) (lower court judge who made the bail determination below shall forthwith file of record a brief statement of the reasons for the determination

or where in the record such reasons may be found); **cf.** Pa.R.Crim.P. 521 (C) (the judge shall state on the record the reasons for refusing or revoking bail).

124 EDM 2012 (Pa. Super. December 11, 2012).

With regard to her notice of appeal, the trial court directed Cavaliere to file a concise statement of errors complained on appeal on November 14, 2012. **See** Pa.R.A.P. 1925(b). Cavaliere timely complied. The trial court, in its opinion pursuant to Pa.R.A.P. 1925(a), found Cavaliere's appeal to be improper. The court explained:

the Superior Court denied [Cavaliere]'s Petition for Review (the instant appeal) and directed her to pursue relief through the trial court. As this was [Cavaliere]'s only avenue of relief (**see** [**Commonwealth v.**] **Colleran**, [469 A.2d 1130 (Pa. Super. 1983)]), this should have ended her appeal. Regardless, Cavaliere improperly attempted to obtain appellate relief, after the Superior Court informed her she could not, through the instant filing.

Trial Court Opinion, 3/6/13, at 2-3. We agree with the trial court; therefore, we are constrained to quash Cavaliere's appeal.

"An appeal from an order revoking bail is an interlocutory order, which is non-appealable." **Colleran**, 469 A.2d at 1131. As such, "[t]he proper method to challenge an order of a trial court refusing or revoking bail is by means of a petition for review pursuant to Chapter 15 of the Rules of Appellate Procedure." **Id.**

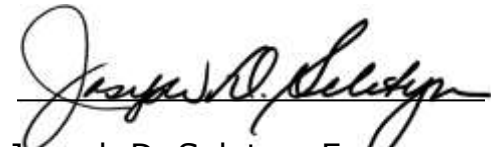
Here, Cavaliere filed a petition for review of the order revoking and modifying her bail. Use of this procedure was consistent with the decision of

this Court in ***Colleran, supra***. ***See also Commonwealth v. McDermott***, 547 A.2d 1236, 1241 (Pa. Super. 1987).

We denied Cavaliere's petition and instructed her to apply to the trial court for relief since no appeal was pending. **See** Pa.R.A.P. 1762(b)(1). Despite our express instructions to the contrary, Cavaliere chose to pursue relief through a direct appeal this Court. Because the instant appeal is from a non-appealable interlocutory order, we have no jurisdiction to grant relief.

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: 12/4/2013