

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

RONALD E. VENTURELLA, JR.

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 611 WDA 2012

Appeal from the Order February 19, 2012
In the Court of Common Pleas of Westmoreland County
Criminal Division at No(s): CP-65-CR-0004345-2008
CP-65-CR-0004346-2008
CR-65-CR-0004347-2008
CP-65-CR-0004348-2008
CP-65-CR-0004349-2008
CP-65-CR-0004350-2008
CP-65-CR-0004351-2008

BEFORE: SHOGAN, J., OTT, J., and COLVILLE, J.*

MEMORANDUM BY OTT, J.:

Filed: March 1, 2013

Ronald E. Venturella, Jr., purports to appeal from the February 19, 2012 order of the Court of Common Pleas of Westmoreland County, regarding his *pro se* motion for modification of sentence with time credit and for expungement. Venturella contends that the trial court erred in concluding that the court lacked jurisdiction to rule on his *pro se* motion. Based upon the following, we quash this appeal.

* Retired Senior Judge assigned to the Superior Court.

On November 9, 2009, pursuant to a plea bargain, Venturella pleaded guilty, at Docket Number 4345-C-2008, to corruption of minors, 18 Pa.C.S. § 6301(a)(1), and indecent assault, 18 Pa.C.S. § 3126(a)(8), after the Commonwealth requested dismissal of the charge of aggravated indecent assault, 18 Pa.C.S. § 3125(a)(7), and amendment of the charge of indecent assault from 18 Pa.C.S. § 3126(a)(7). On that same day, November 9, 2009, the trial court sentenced Venturella to a term of imprisonment of two to four years, and two years consecutive probation.¹ On August 19, 2010, Venturella filed a petition for post-conviction relief pursuant to the Post Conviction Relief Act (PCRA).² However, on February 23, 2011, appointed counsel withdrew the PCRA petition on behalf of Venturella.

On December 9, 2011, Venturella filed a *pro se* motion for "*nunc pro tunc* modification of sentence with application to proceed *in forma pauperis*, and time credit with expungement [of] other criminal charges," seeking, *inter alia*, expungement of charges at Docket Number 4345-C-2008.³ In

¹ On six other consolidated cases, Docket Numbers 4346-C-2008 through 4351-C-2008, the trial court imposed sentences concurrent to the sentence at Docket Number 4345-C-2008 — two years to four years' imprisonment at Docket Numbers 4346-C-2008, 4347-C-2008, and 4351-C-2008, and eleven and one half to 23 months' imprisonment at Docket Numbers 4348-C-2008, 4349-C-2008, and 4350-C-2008. **See** N.T., 11/9/2009.

² 42 Pa.C.S. §§ 9541-9546.

³ **See** Venturella's *pro se* motion for "*nunc pro tunc* modification of sentence with application to proceed *in forma pauperis*, and time credit with (Footnote Continued Next Page)

response, Venturella received a letter, dated December 20, 2011, and authored by the trial judge's law clerk, stating that the trial court was without authority to act on his petition. Thereafter, Venturella wrote to the trial court on January 26, 2012, and the trial court's law clerk responded by letter dated February 7, 2012, stating that the trial court lacked jurisdiction. Venturella then filed this appeal from "the order" entered on "the 19th day of February[, 2012]."⁴ Thereafter, on May 15, 2012, the trial court appointed counsel to assist Venturella in his appeal.⁵

In the counseled brief submitted in this appeal, the sole contention presented by Venturella is that "the trial court has jurisdiction to hold a hearing on [his] petition for expungement."⁶ We do not reach this question, however, since there is no appealable order disposing of Venturella's motion.

While Venturella characterizes the subject of the instant appeal as an "order" of the Westmoreland County Court of Common Pleas, Venturella is

(Footnote Continued) _____

expungement [of] other criminal charges," 12/9/2011, at ¶12, seeking expungement of the dismissed charge of aggravated indecent assault, 18 Pa.C.S. § 3125(a)(7), and the charge of indecent assault, 18 Pa.C.S. § 3126(a)(7), which was amended to 18 Pa.C.S. § 3126(a)(8).

⁴ Venturella's *pro se* Notice of Appeal, 2/19/2012.

⁵ The trial court did not order Venturella to file a concise statement of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(b), nor did the trial court file a Rule 1925(a) opinion.

⁶ Venturella's Brief at 4.

actually appealing from the court's correspondence, dated February 7, 2012.⁷ **See** Venturella's Brief at 2. However, the letter at issue cannot be the subject of an appeal because it is not a final order entered by the trial judge. **See** 42 Pa.C.S. § 742 (this Court has jurisdiction over appeals from final orders); Pa.R.A.P. 102 (defining an "order" as a "judgment, decision, decree, sentence and adjudication"). **See also** Pa.R.A.P. 301(a)(1) ("[N]o order of a court shall be appealable until it has been entered upon the appropriate docket in the lower court."); Pa.R.A.P. 341(b) (defining "final order" as any order that, *inter alia*, "disposes of all claims and of all parties[.]").

In the instant matter, as there is no disposition by the trial judge regarding Venturella's December 9, 2011 *pro se* motion, there is no final order from which Venturella may appeal. Venturella's appeal, therefore, is not properly before us. Accordingly, we quash the appeal.

Appeal quashed.

⁷ The Commonwealth, on April 23, 2012, filed an application to quash, which this Court denied without prejudice to the Commonwealth's right to renew the motion upon receipt of the original record in this Court. **See** Order, 4/24/2012. The Commonwealth, in its appellate brief, has reasserted its position that the appeal is not taken from a final order. **See** Commonwealth's Brief at 7.

