

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellee

v.

RICKEY JAMES WEBSTER

Appellant

No. 771 MDA 2012

Appeal from the Order Entered April 9, 2012
In the Court of Common Pleas of Bradford County
Criminal Division at No(s): CP-08-CR-0000024-1992
CP-08-CR-0000504-1993
CP-08-CR-0000506-1993
CP-08-CR-0000507-1993

BEFORE: MUNDY, J., OTT, J., and STRASSBURGER, J.*

MEMORANDUM BY OTT, J.

FILED MAY 03, 2013

Ricky James Webster appeals, *pro se*, from the order entered in the Court of Common Pleas of Bradford County on April 9, 2012, granting him credit for time served. Because Webster's appeal and brief are incomprehensible and do not adhere to the Rules of Appellate Procedure, we are forced to quash this appeal pursuant to Pa.R.A.P. 2101.¹

* Retired Senior Judge assigned to the Superior Court.

¹ When briefing the various issues that have been preserved, it is an appellant's duty to present arguments that are sufficiently developed for our review. ***Commonwealth v. Gould***, 2006 PA Super 348, 912 A.2d 869, 873 (Pa. Super. 2006). The brief must support the claims with pertinent discussion, with
(Footnote Continued Next Page)

On September 26, 1993, Webster pled guilty to multiple counts of indecent assault and statutory rape.² Our review of the notes of testimony from the guilty plea indicates Webster entered into an open plea. On December 19, 1994, Webster was given an aggregate sentence of eight years and nine months to nineteen years, eleven months and twenty-nine days of incarceration. This sentence was made consecutive to a sentence Webster was already serving of fifteen months to four years, eleven months and twenty-nine days on a prior conviction for indecent assault.

Webster was arrested for the instant charges while serving time for the prior conviction. He appears to be claiming that he has not been properly credited with 453 days credit for time served while awaiting trial for the instant matter. Further, he appears to believe the alleged failure to credit him with time served violates the terms of his plea agreement.

(Footnote Continued) _____

references to the record and with citations to legal authorities. ***Id.***; Pa.R.A.P. 2119(a), (b), (c). Citations to authorities must articulate the principles for which they are cited. Pa.R.A.P. 2119(b).

This Court will not act as counsel and will not develop arguments on behalf of an appellant. ***Gould***, 912 A.2d at 873. Moreover, when defects in a brief impede our ability to conduct meaningful appellate review, we may dismiss the appeal entirely or find certain issues to be waived. ***Id.***; Pa.R.A.P. 2101.

Commonwealth v. Kane, 10 A.3d 327, 331 (Pa. Super. 2010) (citation omitted).

² 18 Pa.C.S. §§ 3122 (repealed 1995; replaced with §3122.1), 3126, respectively.

In April 1995, the Department of Corrections notified Webster that the 453 days he spent incarcerated prior to trial in this matter, were properly credited to the sentence he was serving on his prior conviction and therefore would not be credited to the instant matter. On November 1, 1995, Webster filed a concise statement of matters complained of on appeal pursuant to Pa.R.A.P. 1925(b). He did not complain about the adjustment of his credit for time served.

This matter remained dormant until September 2, 2011, when Webster filed a Motion for Modification of Sentence. This motion was denied as untimely on September 23, 2011. Additionally, the trial court noted that any attempt to correct records of the Department of Corrections must be filed as a mandamus action in the Commonwealth Court. Webster did not appeal that order.

At some time in 2011, Webster appears to have attempted to raise a claim in the Commonwealth Court. However, the Commonwealth Court denied him relief on November 22, 2011.³

On March 7, 2012, Webster filed a PCRA petition, seeking credit for time served. This petition was denied on July 10, 2012, approximately three months after he filed the instant appeal.

³ The only reason we know this is because Webster included two pages from the Commonwealth Court's Order in his Exhibits to his Appellant's Brief.

Apparently *sua sponte*, the trial court entered the April 9, 2012 order, which set Webster's release date at September 13, 2013. This is the order Webster timely appealed.

In his notice of appeal, Webster claims his sentence should expire on November 13, 2012 rather than on September 13, 2013 as indicated in the April 9, 2012 order. In his brief, Webster also raises arguments regarding orders entered after the April 9, 2012 order, and from which no appeal has been taken. Webster provides no support for his contention the April 9, 2012 order is improper or represents an incorrect release date. Because Webster has not indicated where the error in calculating his release date lies, we cannot evaluate his claim. An assertion that his release date is incorrect without more is insufficient.⁴

Because Webster has provided no relevant citations to the record to support his claim, no relevant citations to law, and no cogent argument as to why he is entitled to relief, we essentially have nothing to review. Additionally, because his brief addresses claims not preserved in his notice

⁴ Much of the argument in Webster's brief is based on the false claim that the government has breached its plea agreement by failing to credit his time served. We have reviewed the notes of testimony from both the guilty plea and sentencing, there is no evidence of an agreement regarding sentencing in general, and no specific mention of time served. Webster was informed at the time of the guilty plea that his sentence would be wholly determined by the court. **See** N.T. Guilty Plea, 9/26/94 at 1-3, 14. While Webster is entitled to whatever credit the law provides regarding time served, that was not part of the plea agreement. Therefore, breach of the plea agreement cannot serve as the basis for relief.

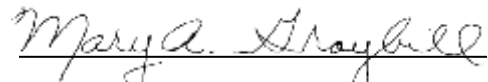
of appeal as well as orders he has not appealed, we cannot conduct any meaningful review.

Rule of Appellate Procedure 2101 allows us to quash an appeal where the defects of the brief are this substantial.

Appeal quashed.

Strassburger, J., files a dissenting memorandum.

Judgment Entered.


Deputy Prothonotary

Date: 5/3/2013