

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

:

:

Vs.

:

No. MD-174-2017

:

2012 MAZDA 323 SEDAN :

:

VIN JM1BL1VF8C1514566 :

:

Defendant :

:

Michael S. Greek, Esquire

Counsel for Commonwealth
Assistant District Attorney

Matthew Rapa, Esquire

Counsel for Defendant

SUPPLEMENTAL MEMORANDUM OPINION AND ORDER

Matika, J. - August 2 , 2019

On September 28, 2018, Appellant, Irene Swiatek (hereinafter "Swiatek") filed "A Motion for Reconsideration of Memorandum Opinion" that this Court issued and filed on June 21, 2018 granting the Commonwealth's Petition for Forfeiture and Condemnation. Swiatek alleged in this motion that the Carbon County Clerk of Courts failed to provide notice of this Opinion and accompanying order to her.¹ As a result, Swiatek requested, in paragraph 29, that ". . . this Honorable Court reconsider the Order of Court attached as Exhibit "A" and enter an order denying the Commonwealth's petition for forfeiture, or in the alternative, requests that this Honorable Court vacate its prior Order of Court and schedule a hearing to make a determination of (sic) on her

¹ This error was acknowledged by the Court in footnote 1 of the March 7, 2019 Order of Court denying the Motion for Reconsideration.

Excessive Fines Clause challenge." Further, in her prayer for relief, Swiatek simply requested this Court to reconsider the Order of Court attached as Exhibit "A".

Based upon the untimeliness of the filing of the Motion for Reconsideration caused by the failure of the Clerk of Courts to send notice to Swiatek, this Court indicated in footnote 1 that it would treat the Motion for Reconsideration as one seeking reconsideration of the June 21, 2018 nunc pro tunc.

At no time did this Court consider the Motion for Reconsideration as one seeking nunc pro tunc relief to file an appeal, especially in light of the fact that Swiatek's motion never requested it. Accordingly, the reference to nunc pro tunc relief in footnote 1 of the March 7, 2019 order of court was not intended, to nor did it reinstate Swiatek's appeal rights. Had Swiatek intended to seek to have her appeal rights reinstated nunc pro tunc, she had every right to request that as alternate relief. She failed to do so.

BY THE COURT:



Joseph J. Matika, J.C.