

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

COMMONWEALTH OF PENNSYLVANIA :
 :
 v. : No. 381-CR-2019
 :
 JASON REED, :
 :
 Defendant :
 :
 Gary F. Dobias, Esquire : Counsel for the Commonwealth
 Assistant District Attorney :
 :
 Jason Reed : Pro Se
 :
 Gregory L. Mousseau, Esquire : Standby Counsel for Defendant

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MEMORANDUM OPINION

Serfass, J. - April 14, 2020

Jason Reed (hereinafter "Defendant") filed the instant interlocutory appeal on February 19, 2020 following his February 4, 2020 convictions on one count of possession with intent to deliver a controlled substance, one count of indecent exposure, one count of possession of drug paraphernalia, two counts of possession of a controlled substance, and the summary offenses of public drunkenness and disorderly conduct. We file the following Memorandum Opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a) and recommend that the aforesaid appeal be quashed for the reasons set forth hereinafter.

FACTUAL AND PROCEDURAL HISTORY

On March 13, 2019, Officer John Pruitte of the Jim Thorpe Police Department filed a criminal complaint charging that on or

about March 12, 2019, Defendant violated certain sections of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-101 et seq., and the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 et seq., to wit, possession with intent to deliver a controlled substance (35 P.S. §780-113(a)(30)), indecent exposure (18 Pa.C.S.A. §3127(a)), possession of drug paraphernalia (35 P.S. §780-113(a)(32)), possession of a controlled substance (35 P.S. §780-113(a)(16)), public drunkenness (18 Pa.C.S.A. §5505) and disorderly conduct (18 Pa.C.S.A. §5503(a)(4)).

A jury trial was held in this matter on February 4, 2020. Defendant elected to represent himself at trial and, following Defendant's execution of a written waiver of counsel colloquy form, this Court appointed Chief Public Defender Gregory L. Mousseau, Esquire to serve as stand-by counsel pursuant to Pa.R.Crim.P. 121D. Defendant was convicted on all counts on February 4, 2020. Via order dated February 5, 2020, we directed Defendant to appear for sentencing at 9:00 a.m. on April 21, 2020. Pursuant to that same order, we also directed the Carbon County Adult Probation Department to conduct a pre-sentence investigation and prepare an appropriate report for the Court's consideration in fashioning Defendant's sentence.

On February 19, 2020, Defendant filed a pro se "Notice of Appeal" alleging a failure on the part of stand-by counsel to turn over or submit certain evidence on the day of trial. To date,

Defendant has failed to identify any specific order of this Court which forms the basis of his appeal.

DISCUSSION

Defendant's appeal is not from a final court order and no exception applies that would allow him to file an interlocutory appeal. Indeed, Defendant has not identified any order, final or otherwise, from which he seeks to appeal.

It is well settled that, as a general rule, appellate courts have jurisdiction only over appeals taken from final orders. Commonwealth v. White, 910 A.2d 648, 653 (Pa. 2006). See 42 Pa.C.S. §742 (providing appellate jurisdiction to the Superior Court over "final orders"). Pa.R.A.P. 341(b) defines a final order as follows:

Definition of final order. A final order is any order that:

(1) disposes of all claims and of all parties;
or

(2) is expressly defined as a final order by statute; or

(3) is entered as a final order pursuant to subdivision (c) of this rule.

Pa.R.A.P. Rule 341(b). This rule is interpreted in accordance with the plain language of its terms. Nationwide Mut. Ins. Co. v. Wickett, 763 A.2d 813, 817 n. 6 (Pa. 2000).

"An appeal will lie only from a final order unless otherwise permitted by statute or rule. A final order is usually one which

ends the litigation or, alternatively, disposes of the entire case. The purpose of this policy is to avoid piece-meal litigation and the consequent protraction of litigation." Jenkins v. Hospital of Medical College of Pennsylvania, 634 A.2d 1099, 1102 (Pa. 1993) (citations omitted). While there are exceptions to this rule, those exceptions are limited to well-defined categories, including an order denying class action status and the statutory provision allowing interlocutory appeals by permission. Schaefer v. American States Insurance Co., 414 A.2d 672, 674 (Pa.Super. 1979); 42 Pa. C.S.A. § 702(b). However, these exceptions should not be invoked frequently or haphazardly, otherwise the policy which seeks to minimize fragmentary appeals would be undermined. Schaefer, 414 A.2d at 674.

In the instant matter, Defendant is scheduled for sentencing on April 21, 2020. Without question, our sentencing order would be considered a final order pursuant to Pa.R.A.P. 341(b) thereby triggering Defendant's appellate rights. However, Defendant's appeal is premature at this time and should be quashed accordingly.

CONCLUSION

For the reasons set forth hereinabove, we respectfully recommend that the instant appeal be quashed.

BY THE COURT:



Steven R. Serfass, J.