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39 MDM 2018

COMMONWEALTH OF PENNSYLVANIA	**: IN THE COURT OF COMMON PLEAS,**
	: DAUPHIN COUNTY, PENNSYLVANIA
	:
v.	**: NO. 3716 CR 2015**
	:
SEAN DONAHUE	**: CRIMINAL MATTER**

ORDER OF COURT

AND NOW, this 24th day of April, 2018, upon consideration of Petitioner's Motion for Nominal Appeal Bail, Request for Production of Full Transcripts of Trial and All Pre-Trial Hearings and Request for Complete Records on Jury filed on or about April 3, 2018, his Amended from Motion Submitted on April 3, 2018, and his Application for Relief it is HEREBY ORDERED as follows:

1) The Motion for Nominal Appeal Bail or Stay of the Sentence is DENIED.

2) The Request for Production of Full Transcripts of Trial and All Pretrial Hearings is DENIED. Petitioner must follow the Request for Transcripts procedure. See Pa.St.J.Admin. Rule 4007 and D C.J.A. 4007.

3) The request for Complete Records on Jury is DENIED.

4) The request for Stay of Sentence to Preserve PCRA is DENIED.

5) The Motion for the Instatement/Reinstatement of STATE Coram Nobis Procedure or Similar Procedure to Allow for the Post Conviction Correction of State Court Errors when State Post Conviction Relief is NOT Available is DENIED.

6) The Motion to Quash the portion of Pennsylvania PCRA requiring Petitioners to still be serving a sentence is DENIED.

7) The Motion to Quash the portion of Pennsylvania PCRA requiring petitions to be filed within one year of entry of final judgment is DENIED.

8) The Motion to Quash the portion of Pennsylvania PCRA preventing courts from entertaining a PCRA request in anticipation of the filing of a petition is DENIED.

9) The Application for Relief is DENIED.

BY THE COURT:

Deborah E. Curcillo

Deborah E. Curcillo, J.

Distribution:
Hon. Deborah E. Curcillo
Katie Adam, Esq., Dauphin County District Attorney's Office
Sean Donahue, 625 Cleveland St., Hazleton, PA 18201

2018 APR 24 PM 12: 55

APPENDIX A.1 Order Being Appealed or Trial Court

COMMONWEALTH OF PENNSYLVANIA	:	**IN THE COURT OF COMMON PLEAS**
	:	**DAUPHIN COUNTY, PENNSYLVANIA**
	:	
v.	:	
	:	**1329 MDA 2018**
SEAN DONAHUE	:	**3716 CR 2015**
	:	

TRIAL COURT MEMORANDUM OPINION PURSUANT TO PENNSYLVANIA RULE OF APPELLATE PROCEDURE 1925(A)

Appellant, Sean Donahue ("Appellant" or "Mr. Donahue") appeals from this Court's Order dated April 24, 2018, which denied the following requests of the Appellant: (1) nominal bail or stay of his sentence, (2) a request for production of full transcripts of all trial and all pretrial hearings, (3) a request for complete records on the jury, (4) a request for stay of his sentence to preserve the Post-Conviction Relief Act[1](PCRA), (5) a motion for the instatement/reinstatement of coram nobis procedure or similar procedure to allow for the post-conviction correction of state court errors when state post-conviction relief is not available, (6) a motion to quash a portion of the Post-Conviction Relief Act requiring Petitioners to still be serving a sentence and, (7) a motion to quash a portion of the Post-Conviction Relief Act preventing courts from entertaining a PCRA request in anticipation of the filing of a petition. This opinion is written pursuant to Pa.R.A.P. 1925(a).

Procedural History

On April 23, 2018 Appellant filed a Motion requesting the eight forms of relief listed above. Thereafter on April 24, 2018, this Court issued an order denying the motion. On August 22, 2018, this Court received a Notice of Appeal filed with the Superior Court of Pennsylvania.

[1] 42 Pa. Cons. Stat. Ann. § 9543

This Court ordered Appellant on August 29, 2018, to file a concise statement of matters complained of on appeal pursuant to Pa.R.A.P. 1925(b). Appellant complied with said Order on September 10, 2018.

Factual Background

On January 12, 2015, Appellant was charged with one count of first degree misdemeanor (terroristic threats)[2] and two counts of third degree misdemeanor (harassment)[3] for allegedly emailing threats to various Commonwealth employees and the media.

In July 2015, bail was set following the preliminary hearing. Shortly thereafter, a Petition for Habeas Corpus and a Petition for Release Pursuant to Rule 600 or, in the alternative, Petition for Bail Reduction were filed. They were both denied, with the denial of the Bail Reduction being reviewed by the Superior Court who denied the request.[4]

On April 18, 2016, a jury trial commenced. At trial, the jury was hung as to the terroristic threats charge, but found guilty on the two harassment charges. The district attorney immediately chose to nolle pros the terroristic threats charge.

The Commonwealth limited itself to using only 4 emails in its case in chief. Those four emails were each sent to roughly 50 individuals. Lisa Sauder and Mary Jane McMillan were both courtesy copy recipients of the emails. Mary Jane McMillan was in the "to" filed on one email.

The first email reads, in part:

> I now advise you that if you follow through, and even entertain the slightest bit of a notion that you and the rest of the Commission have the jurisdiction necessary to pass judgment over my use of federal and state courts, I will pursue punishment of you, the remaining Commission members and the senior employees of the Commission for your even attempting to control access to the courts. By doing so, you will face the very same court actions that

[2] 18 Pa.C.S.A. § 2706
[3] 18 Pa.C.S.A. § 2709(a)(4)
[4] See 63 MDA 2015

PA L&I now claims its employees faced and fear that they still face from me.

That is a threat and I make that threat with the full confidence of Democracy and no fear whatsoever of the federal and state courts. Print this explicit unapologetic threat out and take it to your nearest FBI office or US Attorneys Office. You may take it to your local state Attorney Generals office and Magistrate as well, for I will show no respect for state level immunity for you in this matter.

The second email reads in part:

Congratulations. You've one. The amount of money I spent on paper copies trying to fight your agency in the courts over the past decade has been more than enough to by a quality assault rifle and an ample supply of ammunition or explosive materials, all of which your staff, your employees and your affiliates accused me of doing and all of which they repeatedly told police they feared. It was all bullshit and you knew it...And you won't even have the balls to walk into a courtroom and file a private criminal charge because you can't push the Court around like you can the civil service commission. You won't have to explain to a judge how you rectify my having spent so much money on civil court actions instead of just buying a $200 gun and $20 box of ammunition and killing your employees, like they accuse me of having been accusing me of having a propensity towards for about a decade...be grateful that your memory of me is associates with reams of paper and email complaints so that you don't have to remember me every time you walk past the hunting section of a department store, like your employees have accused me of for so long, when they should have been focused on getting me a job making enough money to repay those student loans that are going to be paid off by your law firm's income tax instead of my paycheck because I don't have a paycheck.

The third email read exactly as the second, with a nearly identical recipient list, in a different order.

The fourth email reads in part:

If L&I and the Civil Service Commission do not start obeying the law that grant me veterans preference for numerous employment related benefits, I am going to find a LEGAL way to pound the shit out of your government agencies and I am going to that method, whatever it is in whatever context makes it LEGAL, to pound your employees into submission until they stop denying me my benefits.

> I hope all of you suffer terrible tragedies as you leave office and I hope you suffer to a much greater degree than you arw actively causing in my life very day. I hope that all of you who are iiivolved in manipulating the civil service laws to prevent me from being employed die in a terrible tragedy of your own doing. I hope each of you feels the regular daily pain that you have intentionally caused in my life for years and still cause today. As you move aggressively to cement that misery into my life before you leave office in January, think of Ferguson, think of the anger and frustration that government oppression is causing in our society...
>
> I can't accomplish anything with a weapon. I need a unit. I need a militia of equally as frustrated Pennsylvanians and Americans who are fed up with being ignored by government...

Lisa Sauder testified that while she had communicated via email with Appellant over a period of years, the tone changed and she became alarmed. (Notes of Testimony, Jury Trial[5], p. 21). While Ms. Sauder's job required that she interact with people with grievances, she had never, in 26 years at her job, received emails like these before, referencing guns, and she was afraid. (N.T. 34-35). She felt the email was extremely angry and expressed a potential to do harm. (N.T. 45).

Mary Jane McMillan was also alarmed after receiving the emails. (N.T. 72). She had never received emails with that sort of language and was concerned enough to notify her supervisor's boss about them. (N.T. 72-73). She actually went above her supervisor's head because she was so concerned; normally she would have told her supervisor first. (N.T. 73).

Corporal Richard Schur was given the emails by state employees and he was assigned to investigate. He located Appellant and he ultimately charged Appellant in this case.

Appellant's Statement of Matters Complained of on Appeal

- The Appellant's request for nominal bail should have been granted.
- The Appellant's request for all jury information should have been granted.
- The elements of the Pennsylvania Post-Conviction Relief Act are overly broad.

[5] Hereinafter "N.T."

- The Appellant's counsel at trial was ineffective.
- The evidence presented at trial was tampered with by the Prosecutor because the same evidence was not presented during pre-trial procedures that was presented at trial.
- Various witnesses at trial, including police officers and employees of state agencies, lied on the stand and withheld information from the jury.
- The Prosecutor failed to introduce exculpatory evidence that would have undermined the testimony of various witnesses.
- This Court issued contradictory rulings to one of the Appellant's dockets in Luzerne County, where the docket was dismissed on a Writ of Habeas Corpus. Thus, this Court's rulings are ineffective.
- The Appellant was subjected to double jeopardy because the Appellant's cases arising out of Dauphin and Luzerne Counties were both the basis of claims asserted by the same state officials.
- The Appellant's request for instatement or reinstatement of coram nobis procedure should have been granted.
- The Appellant's motions to quash a portion of Pennsylvania's Post-Conviction Relief Act, which requires appellant's to still be serving a sentence to file, should have been granted.

Discussion

In addressing the Appellant's first issue complained of on appeal, nominal bail was properly denied. Pursuant to Rule 524 of the Pennsylvania Rules of Criminal Procedure[6] nominal bail is defined as:

[6] Pa. R. Crim. P. 524(C)(4)

"Release conditioned upon the defendant's depositing a nominal amount of cash which the bail authority determines is sufficient security for the defendant's release, such as $ 1.00, and the agreement of a designated person, organization, or bail agency to act as surety for the defendant".

The Court in *Commonwealth v. Jones*, discussed the dual purposes of awarding bail which is: "(1) the protection of the accused's speedy trial rights, and (2) the protection of society". In this particular case, one of our greatest concerns was public safety. The Appellant is charged with various threats against society, specifically, Commonwealth employees, and references to obtaining firearms and bullets. This is repeated conduct as the Appellant has been arrested and charged with a similar crime in the past, though we acknowledge he has not been convicted. A mental health evaluation completed by the Appellant indicated that he is aware of what he has done, thus no mental health treatment could be provided which would help assuage our fears of future violence. Thus, this Court believes that nominal bail was properly denied for fear that Appellant would be a danger to the public.

We disagree with the Appellant's contention that his request for all of the juror member's personal information was reasonable and should have been granted. "In Pennsylvania, there is no list of jurors' names and addresses that becomes part of the public judicial record and jurors' names and addresses are not subject to a common law right of access".[7]

This Court clearly acted within its authority by denying the Appellant's request, as evidenced by the language in *Commonwealth v. Long*.[8] Additionally, if that is not enough to satisfy the Appellant, this Court again will cite to the importance of public safety as part of its reasoning for its denial of the Appellant's request for juror information. In this particular case, the Appellant was on trial for sending terroristic threats to employees of a government agency,

[7] *Commonwealth v. Long*, 922 A.2d 892 (Pa. 2007)

[8] 922 A.2d 892 (Pa. 2007)

Thus, this Court found it to be unreasonable to permit a request for such information, especially when the Appellant was initially charged with making threats against other individuals to begin with. Instead, this Court decided to protect those jury members who served an important function in the judicial process. Thus, this Court believes it was correct in denying the Appellant's request for juror information.

In addressing the Appellant's claim that the elements required under the Post-Conviction Relief Act are overbroad, this Court cites to the holding in *Commonwealth v. Dickson*.[9]

> In interpreting a statute, courts must ascertain and effectuate the intention of the Pennsylvania General Assembly. When statutory language is clear and free from all ambiguity, it generally furnishes the best indication of legislative intent; courts must not disregard the statutory language under the pretext of pursuing its spirit. Accordingly, a reviewing court should resort to other considerations to determine legislative intent only when the words of the statute are not explicit. Finally, while minding the other principles of statutory construction, courts must construe all penal provisions strictly in favor of defendants' liberty interests.

In this particular case, the Appellant is requesting that this Court make a determination that the portion of the Post-Conviction Relief Act requiring an individual to be currently serving a sentence of imprisonment, as overly broad. It is clear from the holding in *Dickson* that courts should refrain from trying to interpret the language of the statute when its language is free and clear from all ambiguity. For reference, the Post-Conviction Relief Act[10] provides the following:

> To be eligible for relief under this subchapter, the petitioner must plead and prove by a preponderance of the evidence all of the following:
>
> (1) That the petitioner has been convicted of a crime under the laws of this Commonwealth and is at the time relief is granted:
>
> (i) *currently serving a sentence of imprisonment, probation or parole for the crime* [emphasis added];
>
> (ii) awaiting execution of a sentence of death for the crime; or
>
> (iii) serving a sentence which must expire before the person may commence serving the disputed sentence.

[9] 918 A.2d 95 (Pa. 2007)

[10] 42 Pa. Cons. Stat. Ann. § 9543(1)(i)

527 A.2d 892 (Pa. 2...

(2) That the conviction or sentence resulted from one or more of the following:

(i) A violation of the Constitution of this Commonwealth or the Constitution or laws of the United States which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(ii) Ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(iii) A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the petitioner to plead guilty and the petitioner is innocent.

(iv) The improper obstruction by government officials of the petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court.

(vi) The unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced.

(vii) The imposition of a sentence greater than the lawful maximum.

(viii) A proceeding in a tribunal without jurisdiction.

(3) That the allegation of error has not been previously litigated or waived.

(4) That the failure to litigate the issue prior to or during trial, during unitary review or on direct appeal could not have been the result of any rational, strategic or tactical decision by counsel.

This Court chooses to refrain from interpreting the language of the Post-Conviction Relief Act in the manner requested by the Appellant. This is because this Court finds the statute to be very clear in its language and the need for interpretation lacking. It is very apparent by the language used in the Act that to assert claims under this Act, an individual must be currently serving a sentence of either imprisonment, parole, or probation. This Court will not disturb the plain meaning of the statute to satisfy the Appellant's desire to assert a claim pursuant to the Post-Conviction Relief Act when he no longer is eligible for this form of relief. Thus, we believe that that this Court's ruling denying the Appellant's motion to quash a part of the Post-Conviction Relief Act was proper.

Next, we will address the Appellant's assertion that his defense counsel was ineffective during his criminal trial. The Appellant, in his Concise Statement of Errors Complained of on Appeal, asserted ineffective assistance of counsel in issues thirteen, fourteen, eighteen, nineteen, twenty-one through thirty, and thirty-one through thirty-seven. This Court will not address these issues regarding ineffective assistance of counsel because the Appellant should have asserted these complaints through the proper channel; the Post-Conviction Relief Act. In *United States v. Cocivera*[11] the Court held that:

> The Third Circuit has long followed the practice of declining to consider a defendant's claim of ineffective assistance of counsel on direct appeal because the issue is ordinarily more appropriate for collateral attack. This affords the opportunity to develop a factual basis for the claim that counsel's performance did not meet the standard for effective assistance of counsel. It also gives the trial court the opportunity to hear counsel's explanation for the conduct at issue. Frequently, the direct appeal is handled by the same counsel who handled the trial, and it is patent that that counsel cannot forcefully argue ineffective assistance of trial counsel. However, in some cases there may be a sufficient record on appeal to decide the issue and avoid the considerable effort of requiring the defendant to institute a collateral proceeding in order to raise the ineffective assistance of counsel claim.

This Court is under the belief that the Appellant's ineffective assistance of counsel claims would be more properly handled if asserted through the Post-Conviction Relief Act. As stated above, the Appellant raised the issue of ineffectiveness numerous times in his Concise Statement of Errors on Appeal. It would be more appropriate to handle these issues in a collateral proceeding considering the multitude of claims the Appellant has made in regard to the ineffectiveness of his counsel. Additionally, in the instant case, there is a lack of factual basis in the trial transcript to support the Appellant's numerous claims of ineffectiveness.

[11] 104 F.3d 566 (3d Cir. 1996)

In regards to the Appellant's arguments that (1) the evidence at trial was tampered with, (2) various witnesses at trial lied on the stand and withheld relevant information, and (3) the Prosecutor failed to introduce exculpatory evidence; this Court finds all to be meritless. The Appellant has presented no evidence other than his own personal opinion to support such claims. This Court will not address such claims, because there is simply nothing in the record to suggest that any of these claims are true. The Prosecutor assigned to the Appellant's case even noted that all evidence presented on behalf of the Commonwealth was given to the Appellant's counsel prior to his criminal trial. (N.T. 22, 27, 35, 37) In addition to this, not once did the Appellant's counsel object to evidence that was presented by the Commonwealth. (N.T. 22, 28, 36, 44) There is nothing in the trial transcript or any information within this Court's knowledge that witnesses lied on the stand. If that was the belief of the Appellant, he should have communicated that to his attorney during the duration of his criminal trial, so that his trial counsel would be able to effectively cross examine said witnesses and eventually impeach their testimony. For the Appellant's argument regarding the prosecutor's failure to present exculpatory evidence, again there is nothing within this Court's knowledge that suggests any exculpatory evidence existed to support the Appellant. It was very clearly established that the emails sent to the Department of Labor and Industry employees were penned by the Appellant and there was no other evidence to suggest otherwise. (N.T. 22) Ultimately, this Court finds all of the Appellant's arguments regarding these claims to be meritless.

Next, we address the Appellant's assertion that because a Court in Luzerne County dismissed criminal charges against the Appellant, that this Judge is required to as well. "Judges of coordinate jurisdictions sitting in the same court and in the same case should not overrule the decisions of each other." *Okkerse v. Howe*, 521 Pa. 509 (1989). "The law of the case doctrine

refers to a family of rules which embody the concept that a court involved in the later phases of a litigated matter should not reopen questions decided by another judge of that same court or by a higher court in the earlier phases of the matter." *City of Phila. v. Pa. PUC*, 720 A.2d 845 (Pa. Commw. Ct. 1998).

In the case at hand, neither the ruling from this Court nor the dismissal of charges ordered by a Luzerne County Court of Common Pleas arose from the same case. The charges against the Appellant in Luzerne County arose from threatening emails sent to the Luzerne County District Attorney. (N.T. 10-13) Charges from this County arose out of threatening emails sent by the Appellant to employees of the Department of Labor and Industry. *Id.* Additionally, neither the Judge of this Court nor the Luzerne County Court are judges of coordinate jurisdictions. Both courts, quite obviously, are located in different counties and handle different cases. Thus, we believe that the Appellant is incorrect in his assertion that this Court's ruling denying his various requests would be rendered ineffective simply because the Luzerne County Court of Common Pleas dismissed the charges against the Appellant.

Next, we address the Appellant's claim that he was subjected to double jeopardy. The Fifth Amendment of the United States Constitution states in relevant part that:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; *nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb* [emphasis added]; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

This Judge had a conversation with both trial attorney's regarding this matter on the record. (N.T. 10-13) As stated above, it was made clear that the Appellant's charges arising out of Luzerne County were the result of the Appellant sending threatening emails to the District

Attorney in Luzerne County. Whereas the Dauphin County charges arose out of threatening emails sent to employees of the Department of Labor and Industry. Thus, we submit that there was no double jeopardy issue present because both charges arose from different crimes committed by the Appellant.

This Court properly denied the Appellant's request to instate or reinstate coram nobis. "The purpose of the writ of coram nobis is to bring before the court rendering the judgment matters of fact which if known at the time the judgment was rendered would have prevented its rendition. It lies to correct errors in fact only, and will not lie to correct errors in law, nor will it lie to permit the review of a judgment for after discovered evidence".[12]

In the Appellant's case, there were no new factual discoveries made that would have warranted a change in the Appellant's case. Simply put, the facts of the Appellant's case have remained unchanged since the judgment in his case has been rendered. Thus, this Court believes that it properly denied the Appellants request for coram nobis.

Finally, we will address the Appellant's argument that this Court should have granted his motion to quash a requirement of the Post-Conviction Relief Act. The portion of the Act that the Appellant asked this Court to quash was the requirement that an individual must still be serving their sentence in order to file a PCRA. However, this Court will rely on its previous argument in addressing this claim. Again, because this Court sees no vague language used in the text of the Post-Conviction Relief Act, it will not disturb the plain and unambiguous language of the Post-Conviction Relief Act. As mentioned above the Court in *Commonwealth v. Dickson*[13] said the following in its discussion of interpretation of statutes by a court:

[12] *Commonwealth v. Harris*, 41 A.2d 688 (Pa. 1945)

[13] 918 A.2d 95 (Pa. 2007)

> In interpreting a statute, courts must ascertain and effectuate the intention of the Pennsylvania General Assembly. When statutory language is clear and free from all ambiguity, it generally furnishes the best indication of legislative intent; courts must not disregard the statutory language under the pretext of pursuing its spirit. Accordingly, a reviewing court should resort to other considerations to determine legislative intent only when the words of the statute are not explicit. Finally, while minding the other principles of statutory construction, courts must construe all penal provisions strictly in favor of defendants' liberty interests.

As this Court mentioned above, it will not disturb the plain meaning of an Act that appears on its face to be very clear in its meaning.

For these reasons, we ask the Superior Court to uphold and affirm our judgment of sentence entered by this Court on April 24, 2018 denying the Appellant's various requests.

Respectfully submitted:

Deborah E. Curcillo, Judge

Dated: 10-15-18

Distribution:
The Superior Court of Pennsylvania
Hon. Deborah E. Curcillo
Katie Adams, Esq., Dauphin County District Attorney's Office
Ryan Lysaght, Esq., Dauphin County District Attorney's Office
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011E12650392

Sean Donahue
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Hazleton, PA 18201

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APPENDIX A.2 (4)

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 45 MAL 2019
Respondent	:	Application for Reconsideration
v.	:	
SEAN M. DONAHUE,	:	
Petitioner	:	

ORDER

PER CURIAM

AND NOW, this 8th day of August, 2019, the Application for Reconsideration is denied.

A True Copy Heather Schroeder
As Of 08/08/2019

Attest: _____
Appellate Court Clerk
Supreme Court of Pennsylvania

APPENDIX B.1 Certified Copy - Order Denying

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA, Respondent v. SEAN M. DONAHUE, Petitioner	No. 45 MAL 2019 Petition for Allowance of Appeal from the Order of the Superior Court

ORDER

PER CURIAM

AND NOW, this 9th day of July, 2019, the Petition for Allowance of Appeal is **DENIED**.

A True Copy Elizabeth E. Zisk
As Of 07/09/2019

Attest:
Chief Clerk
Supreme Court of Pennsylvania

PER CURIAM

DENIED.

Filed 12/14/2018

IN THE SUPERIOR COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA	:	No. 1329 MDA 2018
	:	
v.	:	
	:	
SEAN M. DONAHUE	:	
	:	
Appellant	:	

ORDER

Upon consideration of Appellant's application for reconsideration of this Court's December 7, 2018 order, the application is hereby **DENIED**.

PER CURIAM

APPENDIX C.1 Order Denying Application for

Filed 12/07/2018

IN THE SUPERIOR COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA	:	No. 1329 MDA 2018
v.	:	
SEAN M. DONAHUE	:	
Appellant	:	

ORDER

On April 24, 2018, the Court of Common Pleas of Dauphin County entered its order that denied Appellant's Motion for Nominal Appeal Bail, Request for Production of Full Transcripts of Trial and All Pre-trial Hearings, Request for Complete Records on Jury, Request for Stay of Sentence to Preserve PCRA, Motion for Instatement/Reinstatement of STATE Coram Nobis Procedure, three Motions to Quash Portions of PCRA, and Application for Relief. Appellant filed a *pro se* "Petition for Review" in this Court at 39 MDM 2018 on May 7, 2018, which this Court directed be docketed in the trial court as a notice of appeal filed on that date. The notice was then docketed in this Court at 1329 MDA 2018, as the instant appeal.

An appeal lies only from a final order unless otherwise permitted by rule or statute. ***McCutcheon v. Philadelphia Electric Co.***, 788 A.2d 345 (Pa. 2002); ***Pa.R.A.P. 341(b)(1)*** (final order is any order that disposes of all claims and all parties). In a criminal case, the final order is the judgment of sentence. ***Commonwealth v. Harper***, 890 A.2d 1078 (Pa. Super. 2006).

Through this Court's order of October 5, 2018, Appellant was directed to show cause, within 10 days of the date of this order, why this appeal should not be quashed as taken from an unappealable order. Appellant filed a response, but did not present legal argument to justify this Court's jurisdiction. Therefore, the above-captioned appeal is hereby **QUASHED**.

Appellant's application to exceed word limitations in his brief, filed on November 28, 2018, is **DENIED** as moot.

PER CURIAM

APPENDIX C.2 Quash Sua Sponte

2014 Pennsylvania Consolidated Statutes
Title 18 - CRIMES AND OFFENSES
Chapter 27 - Assault
Section 2709 - Harassment

Universal Citation: 18 PA Cons Stat § 2709 (2014)

§ 2709. Harassment.

(a) Offense defined.--A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person:

(1) strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same;

(2) follows the other person in or about a public place or places;

(3) engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose;

(4) communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures;

(5) communicates repeatedly in an anonymous manner;

(6) communicates repeatedly at extremely inconvenient hours; or

(7) communicates repeatedly in a manner other than specified in paragraphs (4), (5) and (6).

(b) Stalking.--(Deleted by amendment).

APPENDIX E.1 Section 2709 - Harassment __ 2014

Additional material from this filing is available in the Clerk's Office.