

Exhibit 1

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 257 MAL 2017
	:	
Respondent	:	
	:	Petition for Allowance of Appeal from
	:	the Order of the Superior Court
v.	:	
	:	
	:	
DALE MICHAEL WAKEFIELD,	:	
	:	
Petitioner	:	

ORDER

PER CURIAM

AND NOW, this 7th day of August, 2017, the Petition for Allowance of Appeal is
DENIED.

APPENDIX A

J. S67003/16

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
v.	:	
DALE MICHAEL WAKEFIELD,	:	No. 2904 EDA 2015
	:	
Appellant	:	

Appeal from the Judgment of Sentence, June 5, 2014,
in the Court of Common Pleas of Bucks County
Criminal Division at Nos. CP-09-CR-0002725-2014,
CP-09-CR-0006123-2013

BEFORE: FORD ELLIOTT, P.J.E., RANSOM, J. AND STEVENS, P.J.E.*

MEMORANDUM BY FORD ELLIOTT, P.J.E.:

FILED MARCH 21, 2017

Dale Michael Wakefield appeals from the June 5, 2014 judgment of sentence after he entered guilty pleas in two unrelated prosecutions. At No. CP-09-CR-006123-2013, appellant pled guilty to one count of first-degree murder and two counts of aggravated assault.¹ The sentencing court imposed an aggregate sentence of life imprisonment without the possibility of parole. At No. CP-09-CR-0002725-2014, appellant pled guilty to two counts of aggravated assault and one count each of assault by prisoner, simple assault, and harassment.² The sentencing court imposed an

* Former Justice specially assigned to the Superior Court.

¹ 18 Pa.C.S.A. §§ 2502(a), 2702(a)(1), and 2702(a)(4), respectively.

² 18 Pa.C.S.A. §§ 2702(a)(1), 2702(a)(4), 2703(a), 2701(a), and 2709(a)(1), respectively.

The factual histories of the two incidents that gave rise to appellant's guilty pleas are not germane to this appeal. The procedural history following entry of those guilty pleas, however, is perplexing, at best.

The record reflects that appellant, while represented by the Bucks County Public Defender's Office, entered his guilty pleas, and the sentencing court imposed judgment of sentence on June 5, 2014. Nothing in the record indicates that the public defender's office moved to withdraw its representation of appellant following entry of appellant's guilty pleas. In fact, the public defender's office continued to represent appellant for approximately a year after appellant entered those guilty pleas.

Nevertheless, the public defender's office failed to file post-sentence motions on appellant's behalf. As such, appellant was required to file his notice of appeal on or before July 7, 2014.³ The public defender's office did not file a notice of appeal on appellant's behalf.

The record, however, reflects that appellant filed a *pro se* notice of appeal.⁴ (Docket #39.) Appellant dated his *pro se* notice of appeal July 1,

³ We note that 10 days following imposition of sentence was Sunday, June 15, 2014, and that 30 days following imposition of sentence was Saturday, July 5, 2014. Therefore, the filing deadlines were extended to the next business day. **See** 1 Pa.C.S.A. § 1908 (providing that when a statutory filing deadline falls on a Saturday, Sunday, or holiday, the deadline will be extended to the next business day).

⁴ A *pro se* notice of appeal from a final judgment filed by a represented appellant is sufficient to support a timely appeal. **See *Commonwealth v. Cooper***, 27 A.3d 994, 1007 (Pa. 2011).

counsel at the public defender's office, filed "**nunc pro tunc** post-sentence motions," as well as a "petition to reinstate [appellant's] appellate rights **nunc pro tunc**." (Docket #41 and #42.) On August 5, 2014, the Commonwealth filed a motion to deny appellant's post-sentence motions for lack of jurisdiction. Then, on August 19, 2014, appellant filed another **pro se** notice of appeal to this court in Bucks County with another request to proceed **in forma pauperis**. (Docket #43.) Because appellant was represented by counsel, the record reflects that the Bucks County Clerk of Courts Office placed the notice in appellant's criminal case file and forwarded a copy of the request to proceed **in forma pauperis** to the public defender's office and the district attorney's office. (*Id.*)

Over the course of the next several months, the trial court held various hearings on appellant's request to file **nunc pro tunc** post-sentence motions and his petition to reinstate his appellate rights **nunc pro tunc**, but it never entered an order granting or denying these counseled requests. During a hearing on March 27, 2015, appellant, through counsel, withdrew both of those motions in order to proceed on direct appeal. (Notes of testimony, 3/27/15 at 3-6; **see also** Bucks County Criminal Court Sheet, 3/27/15 Docket #58.)

On July 1, 2015, appellant, through newly appointed counsel, filed a third notice of appeal. The appeal was docketed in this court at No. 1905 EDA 2015 and dismissed on October 9, 2015, as duplicative to the current

Rule 590, the sentencing court should inquire whether the defendant understands, among other things, "the nature of the charges to which he or she is pleading guilty[,] and "the permissible ranges of sentences and fines possible." Pa.R.Crim.P. 590, Comment. "[N]othing in the rule precludes the supplementation of the oral colloquy by a written colloquy that is read, completed, and signed by the defendant and made a part of the plea proceedings." **Commonwealth v. Bedell**, 954 A.2d 1209, 1212-1213 (Pa.Super. 2008) (citation omitted), **appeal denied**; 964 A.2d 893 (Pa. 2009).

Thereafter,

- [t]he reviewing Court will evaluate the adequacy of the plea colloquy and the voluntariness of the resulting plea by examining the totality of the circumstances surrounding the entry of that plea. Pennsylvania law presumes a defendant who entered a guilty plea was aware of what he was doing, and the defendant bears the burden of proving otherwise.

Prendes, 97 A.3d at 352 (citations omitted). Accordingly, even if there is an omission in the oral plea colloquy, "a plea of guilty will not be deemed invalid if the circumstances surrounding the entry of the plea disclose that the defendant had a full understanding of the nature and consequences of his plea and that he knowingly and voluntarily decided to enter the plea." **Commonwealth v. Yeomans**, 24 A.3d 1044, 1047 (Pa.Super. 2011) (citation omitted).

Id.

The record further reflects that the sentencing court conducted an extensive oral colloquy, which, when transcribed, spans 78 pages. At the beginning of the colloquy, appellant acknowledged that he was entering his guilty pleas voluntarily and of his own free will. (Notes of testimony, 6/5/14 at 4.) Appellant further acknowledged that no one threatened or forced him into pleading guilty. (*Id.*) The transcript reflects that the sentencing court went through every page of the 16-page written guilty-plea colloquy with appellant, during which time, the following took place:

THE COURT: [A]s of today[, h]ave you consumed any alcohol, drugs or prescription drugs within the last 24 hours?

[APPELLANT]: Yes, Your Honor.

THE COURT: What have you consumed?

[APPELLANT]: I consumed my medication, Risperdal, and Alpraxolam [sic].

THE COURT: Do those medications interfere with your ability to understand what I have said to you so far?

[APPELLANT]: No, Your Honor.

THE COURT: To your knowledge, are you presently suffering from any mental or emotional disabilities?

[APPELLANT]: No.

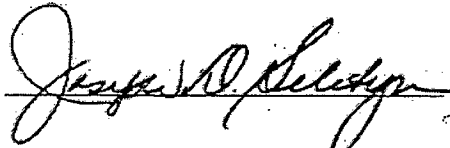
THE COURT: Are you presently under any treatment for mental or emotional disabilities?

force, threats, pressure or intimidation. The record further reflects that appellant agreed with and admitted to the factual basis of his guilty pleas as set forth by the Commonwealth.

After thoroughly reviewing the record, we conclude that the totality of the circumstances surrounding appellant's entry of his guilty pleas discloses that appellant fully understood the nature and consequences of his plea and that he knowingly and voluntarily decided to enter the pleas.

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 3/21/2017

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