

TOWNSHIP OF QUINCY, Plaintiff, v. DANIEL J. BAER,
Personal Representative of the Estate of Pearl E. Baer,
and DANIEL J. BAER, personally, Defendant
Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Franklin County Branch
No. 34 of 2002

Appropriate enforcement procedure when a defendant is found to have violated a municipal ordinance

1. The violation of a municipal ordinance is to be handled in the same manner as a violation of a summary criminal offense.
2. A defendant is protected against a second prosecution for the same offense after acquittal, a second prosecution for the same offense after conviction and multiple punishment for the same offense.
3. There shall be a right of appeal in all cases to a court of record from a court not of record.
4. There is a right of appeal under this subsection (42 Pa.C.S.A. §5105(a)) from the final order (including an order defined as a final order by general rule) of every: (1) Court or district justice of this Commonwealth to the court having jurisdiction of such appeals.
5. The sentencing code permits the Commonwealth to appeal as of right the legality of a sentence; and the Commonwealth may petition for allowance of appeal of the discretionary aspects of a sentence.
6. Allowing a plaintiff to appeal the appropriateness of the judgment of sentence imposed by a district justice for ordinance violations does not violate a defendant's rights to protection against being placed twice in jeopardy under either the United States or Pennsylvania Constitutions.
7. A final order is one which ends litigation or disposes of the entire case.
8. Allowing a Township to appeal the judgment entered by a District Justice is more analogous to appealing a sentence than to appealing a finding of guilt or non-guilt.
9. A Township should be permitted to appeal to a common pleas court the judgment of sentence entered by a district justice for violation of a municipal ordinance.
10. Such an appeal should be treated as a trial *de novo* by the court of common pleas.

Appearances:

James M. Stein, Esq., *Counsel for Plaintiff*

Douglas R. Roeder, Esq., *Counsel for Defendant*

OPINION

Procedural Background

This matter came before the Court on Township of Quincy's ("Plaintiff") Notice of Appeal filed after District Justice Pentz imposed criminal fines against Daniel J. Baer ("Defendant") for violation of two sections of the Quincy Township Zoning Ordinance: [1] Section 6.1(c) regarding expansion of a non-conforming use without permission and [2] Section 9.2(b) regarding operating a junkyard without a license. Defendant filed a Motion to Quash Appeal claiming Plaintiff did not have the right to appeal the judgment of the District Justice. Plaintiff thereafter filed an Answer to Defendant's Motion to Quash. Argument on the Motion and Answer was held on November 4, 2002 with both sides present and represented by counsel. Following the argument both sides submitted letter briefs to the Court. The matter is now ready to be decided.

Factual Background

In August of 1999, Plaintiff served upon Defendant notice that he was in violation of two sections of the Quincy Township Zoning Ordinance, Section 6.1(c) pertaining to junkyards and expansion of non-conforming use and Section 9.2(b) pertaining to operating a junkyard without a license. The township sent an Enforcement Notice to Defendant demanding that he bring his property into compliance. Defendant failed to comply and instead attempted to challenge the Enforcement Notice by appealing the issuance of the notice to the Quincy Township Zoning Hearing Board which failed to grant him any relief. Thereafter, Defendant appealed to the Franklin County Court of Common Pleas and the Commonwealth Court, each of which determined that Defendant had in fact violated the zoning ordinance. Plaintiff's Petition for Allowance of Appeal to the Pennsylvania Supreme Court was denied by *per curiam* order of the Supreme Court on March 5, 2002.

On April 23, 2002, proceeding under the Municipalities Planning Code at 53 P.S. §66601(c.1)(3) and the Quincy Township Ordinance at Section 10.7 regarding enforcement remedies, the Township sought enforcement by filing summary actions against Defendant with District Justice Pentz. 53 P.S. 66601(c.1)(3) provides:

"[w]ith regard to ordinances enacted prior to May 7, 1996 (as Section 10.7 was) those regulating building, housing, property, maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution shall be deemed automatically amended so that they shall be enforced by an action brought before a district justice in the same manner provided for the enforcement of summary offenses in accordance with paragraph (2). (Underlining supplied.)

Paragraph (2) states in part:

" enforcement shall be by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney." (Underlining supplied.)

On application of the Plaintiff, District Justice Pentz held a hearing on July 19, 2002 to decide the amount of fines to be levied against Defendant for the two zoning ordinance violations: [1] of Section 9.2(b) relating to operating a junkyard without a license at docket number NT 850-02 and [2] of 6.1(c) relating to expansion of a non-conforming use without permission at docket number NT 851-02. 53 P.S. 66601(c)(2) provides for fines of up to \$1,000.00 per violation. Section 10.7 of the Zoning Ordinance directs that each day of violation is a separate offense. The record reflects that Defendant was in violation for a period of 449 days. The District Justice entered judgment against Defendant on July 22, 2002 in the amount of \$1,000.00 plus costs on a single violation of each section of the zoning ordinance. Plaintiff appeals the amount of the judgment entered by District Justice Pentz.

Here, we are being asked to decide as to the appropriate enforcement procedure when a defendant is found to have violated a municipal ordinance; and we are required to consider the details of that procedure in light of the issues raised by the parties. There is little appellate authority addressing how to treat a violation of a municipal ordinance as a summary offense with regards to enforcement proceedings. In our analysis, because the procedure is governed by the Pennsylvania Rules of Criminal Procedure relating to the enforcement of summary offenses, we must analogize to that procedure to the extent that we are able. At the outset, we note that it is customary in a summary case for verdict (determination of guilt) and sentence (enforcement or punishment) to happen almost simultaneously during a single proceeding. In contradistinction, in this case, the issue of the Defendant's violation (i.e., guilt) has taken

three years to be litigated through appeals or petitions for appeal from the Quincy Township Zoning Hearing Board all the way through the Pennsylvania Supreme Court. Through the denial of his Petition for Allowance of Appeal, the only matter that has been decided is Defendant's violation. The matter of his punishment for Defendant's already-determined violations, and only that matter, has now been addressed and determined by the District Justice by the entry of judgment of fines and costs; and it is the appeal of those judgments that the Defendant now seeks to quash. We have gone to some length to define the context in which this matter is now before us because it is important to note that, by virtue of the analogy we noted above, we are asked by the Plaintiff to review only the Defendant's "sentence" imposed by the District Justice; and it is the Defendant who has asked that such review be quashed.

Questions Presented

The issues on appeal, fairly summarized, are as follows:

1. Did double jeopardy attach in this case, rendering impermissible an appeal by the Plaintiff?
2. Does the Plaintiff have a right to an appeal of the judgment of sentence of a District Justice in a municipal ordinance enforcement proceeding?
3. If the appeal of the Plaintiff is permissible, is it a review of the decision of the District Justice or is it a trial *de novo*?

The Court will address each issue in order.

The Double Jeopardy Argument

Defendant claims that to allow Plaintiff to appeal the amount of judgment entered by District Justice Pentz would be a violation of his right to protection against double jeopardy. The Defendant cites cases standing for the proposition that the Double Jeopardy Clause of the Fifth Amendment of the United States Constitution, applicable to the states through the 14th Amendment, protects against a second prosecution for the same offense after acquittal, a second prosecution for the same offense after conviction and multiple punishment for the same offense. Here, Defendant asserts that to allow Plaintiff to appeal the amount of judgment would give the Plaintiff a second chance to punish the Defendant.

Plaintiff, on the other hand, believes it has a right to appeal the judgment of the imposition of fines and costs based on the Pennsylvania Constitution, Art. V, Sec. 9, which states that "there shall be a right of appeal in all cases to a court of record from a court not of record...." The rights of appeal generally declared in this section of the Pennsylvania Constitution are not self-executing, and the Supreme Court has held that these rights require statutory implementation. Relying upon *Commonwealth Department of Environmental Resources v. Lee Bowman Asphalt*, 54 Pa.Cmwlth. 71, 420 A.2d 23 (1980), the Plaintiff claims that 42 Pa.C.S.A. §5105(a) is the statutory legislation implementing the appeal right guaranteed under the Pennsylvania Constitution. The referenced statute states, in relevant part, that "[t]here is a right of appeal under this subsection from the final order (including an order defined as a final order by general rule) of every: (1) Court or district justice of this Commonwealth to the court having jurisdiction of such appeals." Therefore, Plaintiff argues, its appeal is not a violation of Defendant's right to protection against double jeopardy.

The Court finds merit in the Plaintiff's argument. To allow Plaintiff to appeal the amount of judgment cannot be fairly or rationally seen as a violation of Defendant's right to protection against double jeopardy. We are at a loss to see how an appeal to this court represents the imposition of multiple punishments against the Defendant. If we are to hear the matter, it is in the context of an appeal from the judgment of the District Justice; and no matter how the matter is sliced, it cannot result in the imposition of an additional judgment of penalty (although it may result in imposition of a different judgment of penalty).

Because the District Justice hearing was limited to determining Defendant's penalty, it was a procedure--as best we can tell--analogous to a sentencing hearing. While only fines were imposed against Defendant, the controlling statute does allow for imposition of a sentence of imprisonment as well. After imposition of the judgment (or sentence), the Plaintiff seeks to appeal the amount. Defendant suggests that this is similar to the Commonwealth appealing a sentence entered against a criminal defendant. It is noteworthy that the legislature has provided, in appropriate cases, for an appeal by the Commonwealth, from a judgment of sentence. Specifically, the sentencing code permits the Commonwealth to appeal as of right the legality of a sentence; and the Commonwealth may petition for allowance of appeal of the discretionary aspects of a sentence. See 42 Pa.C.S.A. §9781. The statute further provides that "allowance of appeal may be granted at the discretion of the appellate court where it appears that there is a substantial question that the sentence imposed is not appropriate." *Id.*

We are not here being asked to review any finding of guilt, but only to tackle the issue of the

appropriateness of the judgment of sentence imposed for ordinance violations. We are not inclined to believe that the legislature, in enacting the governing portion of the Municipalities Planning Code, intended to give to the District Justice the last word on the imposition of penalty. Further, we are unable to conclude that our taking the Plaintiff's appeal in any way violates the Defendant's rights to protection against being placed twice in jeopardy under either the United States or Pennsylvania Constitutions.

The Township's Right to Appeal

This leads us directly into the second issue, whether the Plaintiff has the right to appeal the judgment of sentence of a District Justice in a municipal ordinance enforcement proceeding. As noted above the Commonwealth Court in *Commonwealth Department of Environmental Resources v. Lee Bowman Asphalt, Inc.*, 54 Pa.Cmwlth. 71, 420 A.2d 23 (1980), stated: "[i]n clear terms Section 5105(a) of the Judicial Code grants a right of appeal from a final order of a district justice. In so providing, that Section makes no distinction between civil proceedings and criminal, and no distinction between Commonwealth and defendant." Both *Lee Bowman Asphalt* and our thinking expressed above leads us to conclude that the Township should have the right to appeal the judgment entered by the district justice.

A final order is one which ends the litigation or disposes of the entire case. *Esh v. Awglis*, 291 Pa.Super. 528, 436 A.2d 242 (1981). The orders of judgment entered by District Justice Pentz in these cases are such orders. As noted above, the enforcement of a violation of a municipal ordinance shall be by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. 53 P.S. §66601(c)(2). The section goes on to say "[t]he board of supervisors may prescribe criminal fines not to exceed one thousand dollars (\$1,000) per violation and may prescribe imprisonment to the extent allowed by law for the punishment of summary offenses." *Id.* Further, Rule 460 of the Pennsylvania Rules of Criminal Procedure sets out the procedure for appealing to the Court of Common Pleas in a summary case, "including an appeal following a prosecution for violation of a municipal ordinance that provides for imprisonment upon conviction or upon failure to pay a fine...." The Rule itself does not specifically address who may and who may not file an appeal.

The decisions of the Courts of Common Pleas are divided on the question of whether the Commonwealth has the right to appeal to the Court of Common Pleas the decision of a district justice in a summary proceeding. The differences in opinion most often lie in the way in which the court chooses to interpret the Pennsylvania Constitution, Article V, Section 9 which sets out the Right to Appeal: "[t]here shall be a right of appeal in all cases to a court of record from a court not of record...."

Commonwealth v. Holliday, 1 Pa. D. & C.3d 515, 1975 WL 106 (Pa. Comm. Pl., Somerset County, 1975), stands for the proposition that the Pennsylvania Constitution grants no right of appeal to the Commonwealth from an acquittal in a criminal case, whether felony, misdemeanor or summary offense obtained in a court of competent jurisdiction, whether of record or not of record. This decision was based on a change made to the above referenced section of the Pennsylvania Constitution. Under the Constitution of 1874, Article V, Section 14 provided: "[i]n all cases of summary conviction in this Commonwealth, or of judgment in suit for a penalty before a magistrate, or court not of record, **either party** may appeal to such court of record as may be prescribed by law, upon allowance of the appellate court or judge thereof upon cause shown." (Emphasis added.) When the new language was adopted in the Minor Judiciary Court Appeals Act and rules of criminal procedure promulgated by the Supreme Court following amendment of the Pennsylvania Constitution, the language referencing 'either party' was eliminated. This led the Court in *Holliday* to conclude that neither the legislature nor the Supreme Court intended to give the right to appeal to the Commonwealth in certain criminal proceedings. It is noteworthy that *Holliday* was decided before the amendments to the Municipalities Planning Code that required municipal ordinance enforcement procedures to track the Rules of Criminal Procedure governing enforcement of summary offenses.

Another court, this one in Allegheny County, decided *Shaler Township v. Union Real Estate Company of Pittsburgh*, 57 Pa. D. & C.2d 194 (Pa.Com.Pl., 1971), a case dealing with a township's wanting to appeal the decision of a justice of the peace (now known as a district justice) which discharged the defendant. Relying on the same language in Article V, Section 9 of the revised Pennsylvania Constitution, the Allegheny County court decided that "there clearly is a right to appeal" the decision of a district justice (a court not of record) to the Court of Common Pleas (a court of record) by the Commonwealth when cause is shown.

This Court is inclined to agree with the Allegheny County court. The Plaintiff has claimed that to deprive the Township the right to appeal a judgment entered by a district justice would grant wide and sweeping power to the district justice, unchecked by any higher authority. This can not be what the legislature intended. Moreover, allowing the Township to appeal the judgment entered by the District Justice is, as we have earlier noted, more analogous to appealing a sentence than to appealing a finding of guilt or non-guilt; and in an appropriate case, even the prosecution can appeal the judgment of sentence.

The Court would also note that the decisions reached by the Courts of Common Pleas discussed above were decided before the legislature enacted 53 P.S. 66601(c.1). It was not until 1996 that the legislature amended the Municipalities Planning Code to provide that the procedures for enforcement of municipal ordinances were to follow the same procedure as the enforcement of summary proceedings.

Because we do not believe that the legislature could have envisioned that the District Justice would have the last word as to the penalties for violation of municipal ordinances; and because we find no clear authority forbidding the appeal of a municipality from a district justice's judgment of sentence; and because there is some precedent for the right of the Commonwealth to appeal judgments of sentence in appropriate cases, it is our judgment that Quincy Township should be permitted to appeal to common pleas the judgments of sentence in this case entered by the district justice.

Is the Plaintiff Entitled to a Hearing *de novo*?

The Court having decided that Plaintiff's appeal is proper and permissible, the final issue is whether the appeal should be treated as a review of the decision of the district justice, or whether it should be treated as a trial *de novo*. The Plaintiff urges the Court that the appeal should be heard *de novo*; Defendant urges us in the first instance to disallow the appeal, and in the second instance to limit the proceedings to review for errors of law if we allow the appeal. As noted above, we will deny the Defendant's Motion to Quash thereby entertaining Plaintiff's appeal.

There is virtually no record of the proceedings below for this Court to review. We have not the benefit of the transcript of any testimony and we have no exhibits. We have not the benefit of the arguments of counsel. Under the circumstances, review only for legal errors is a meaningless concept. The matter will be set down for evidentiary hearing limited to the issue of punishment.

Conclusion

Based on the fact that this Court will convene only to take evidence on the issue of punishment, and not on the issue of "guilt," the Defendant is not being placed twice in jeopardy in violation of Constitutional prohibitions. Given our analysis of 53 P.S. 66601(c)(2) and Pa.R.Crim.P. 460 and the Pennsylvania Constitution, we believe that Plaintiff has the right to appeal the judgment imposing punishment of a district justice in a municipal ordinance enforcement proceeding. The only effective way to address the matter, given the absence of a record below, is in a proceeding *de novo*.

ORDER OF COURT

March 13, 2003 the Court having considered the Plaintiff's Notice of Appeal, Defendant's Motion to Quash Appeal, Plaintiff's Answer to Defendant's Motion to Quash Appeal, the briefs and arguments of the parties and the law, it is hereby ordered that Plaintiff's appeal is granted and that Defendant's Motion to Quash Appeal is hereby denied. Plaintiff shall move the Court to set a day, date and time for an evidentiary hearing limited to the issue of punishment of the Defendant for violations of Plaintiff's zoning ordinance. Counsel shall assure that sufficient time is allotted for the taking of evidence.

Section 6.1.C of the Zoning Ordinance reads as follows:

Expansion and Change of Non-conforming Uses:

1. Procedure: Any non-conforming use of structure or land combination thereof may be expanded or changed only upon approval of the Zoning Hearing Board after a special exception hearing as defined elsewhere in this Ordinance.
2. Standards: Each application for an expansion or change of a non-conforming use shall be subject to the following standards:
 - a. It shall be the responsibility of the applicant to sufficiently document to the Zoning Hearing Board that the proposed expansion or change will not be contrary to the purposes of this Ordinance and the public health, safety and welfare of Township residents in general and of the residents of the immediate area, in particular.
 - b. Such expansion or change shall not be applicable beyond the lot lines existing on the date this

Ordinance or its subsequent amendments were adopted.

c. Such expansion or change shall comply with the applicable yard and setback requirements and height regulations of the district where located.

d. Any person seeking permission to change a non-conforming use to any other non-conforming use shall sufficiently document to the Zoning Hearing Board the such new non-conforming use is more in compliance with the applicable provisions of this Ordinance than the present non-conforming use.

Section 9.2 of the Zoning Ordinance provides as follows:

Junkyards

A. Purpose: This section is intended to regulate junk dealers, the establishment and maintenance of junkyards, including, but not limited to automobile junk or grave yards, the storage and disposal of scrap, refuse and junked articles, providing for the issuance of licenses for junk dealers and for the maintenance and operation of junkyards under prescribed conditions prescribing remedies for the abatement of nuisances and unlicensed junkyards and scrap yards, and providing for the revocation of licenses in the event of non-compliance.

B. Licenses: **No person shall engage in business as a junk dealer or maintain a junkyard without first having obtained a license from the Board**, for which license a fee in accordance with the fee schedule resolution adopted by the Board of Supervisors shall be paid to the Township for the use of the Township. The license shall be issued for the twelve month period beginning July 1 and ending June 30 of the following year, and each license must be renewed annually on or before the first day of July of each year. (emphasis supplied)

C. Application for License: **The license provided for in this Ordinance shall be issued by the Board after written application shall have been made therefor by the person desiring to be licensed.** Such license shall state the name of the person to whom such license is issued and the premises on which such business is to be conducted,

or such junkyard is to be maintained. Such license shall be posted conspicuously upon the premises licensed thereunder. The written application for license hereinabove mentioned shall be accompanied by a form, every question of which must be answered, which form will be supplied by the Board. Applicants shall also submit therewith a plot of the premises used or to be used in connection with such license. (emphasis supplied).

D. Issuance of License: Upon receipt of an application by the Board, the Board shall issue a license or shall refuse to issue a license to the person applying therefore after an examination of the application and taking into consideration the suitability of the property proposed to be used for the purpose of the license, the character of the properties located nearby, and the effect of the proposed use upon the Township, both economic and aesthetic. In the event the Board shall issue a license, it may impose upon the license and the person applying therefor such terms and conditions in addition to the regulations herein contained and adopted pursuant to this Section as may be deemed necessary to carry out the spirit and intent of this Section.

E. License Fee: The license fee shall be paid immediately upon the issuance or renewal of a license. The amount of the license fee shall be calculated in accordance with the fee schedule resolution duly passed by the Board of Supervisors. No license shall be issued for the use of a tract of land in excess of twenty (20) acres, excluding set-back areas.

F. License Limitation: No person licensed under this Section shall, by virtue of one license, keep more than one place of business within the Township or maintain more than one junkyard, for the purpose of buying, selling and dealing in junk. No person shall engage in business as a junk dealer in any place other than the place designated upon his license, or maintain a junkyard in any place other than the place designated upon his license.

G. Transfer of License: No license issued by the Board of Supervisors shall be transferable by the license to any other person unless such a transfer is authorized by the Board of Supervisors. Any person desiring to transfer his license shall notify the Board of Supervisors in writing, which notification shall be accompanied by an application for a license, as described in Section 9.2 of this Ordinance, by the transferee.

H. Transfer Fee: In the event the Board of Supervisors shall approve the transfer of a license, the transferee shall immediately pay to the Township a transfer fee in accordance with the fee schedule resolution duly passed by the Board of Supervisors.

I. Records: Every person, licensed under this Section, shall provide and shall constantly keep a book, in which shall be fairly written down in the English language at the time of the purchase of any junk or used cars, a description of every article or material purchased or received by him, the date and hour of such purchase or receipt and the person from whom such article or material was purchased, received or handled. Such book and all junk or used cars purchased, received or handled by any such junk dealer shall at all times be subject to the inspection of any official of the Township.

J. Delay in Disposal: Every person, licensed under this Section, shall keep and retain upon the licensed premises, for a period of forty-eight (48) hours after the purchase or receipt thereof, all junk or used cars received or purchased by him, and he shall not disturb or reduce the same or alter the original form, shape or condition until such period of forty-eight (48) hours shall have elapsed.

K. Regulations: Every person, licensed under this Section, shall constantly maintain the licensed premises in accordance with any special provisions imposed by the Zoning Hearing Board and in the manner prescribed by this Section and any subsequent conditions set by the Board.

1. Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health of the community or of residents nearby or a place for the breeding of rodents and vermin.

2. No garbage or other offensive or unhealthful organic waste shall be stored in such premises.

3. Whenever any motor vehicle shall be received on such premises as junk, all gasoline shall be drained and removed therefrom. Gasoline in an amount not exceeding ten (10) gallons may be stored above ground in said junkyards, provided the same be placed in containers approved by the Zoning Hearing Board. All other gasoline which is kept on the premises shall be stored underground, which underground storage must be approved by the Zoning Hearing Board.

4. The manner of storage and arrangement of junk and used cars and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the premises, and to facilitate access for fire fighting purposes.

5. All junk and used cars kept, stored and arranged on the licensed premises shall at all times be kept, stored and arranged within the junkyard as described in the application for license hereunder, and as limited under Paragraph (D) above.

6. A person licensed under this Section shall not burn more than one motor vehicle or its equivalent at any one time without special written permission of the Zoning Hearing Board. No oil, grease, tires, gasoline or other similar material that might be dangerous or tend to produce obnoxious smoke or odors shall be burned within a junkyard at any time. Burning of vehicles must be attended and controlled at all times.

7. All junkyards and the premises thereof shall meet the licensing and screening requirements of Pennsylvania's Act No. 4 of Special Session No. 3 of 1966, which prohibits junk from being located within one thousand (1,000) feet from the right-of-way of any State Arterial street. In the case of lesser streets, the setback from the right-of-way shall be at least three hundred (300) feet and from property lines at least seventy-five (75) feet.

8. When the Zoning Hearing Board shall deem it necessary and desirable, the premises shall at the setback lines be enclosed by a fence of type and styled to be determined by the Zoning Hearing Board or by evergreen screen plantings. The Zoning Hearing Board may set forth the fence or planting requirements at the time of the issuance of a license or at the time of renewal or transfer of a license.

Section 10.7 of the Zoning Ordinance provides as follows:

Enforcement Remedies

A. Any person, partnership or corporation who or which has violated the Provisions of this Ordinance or of Act 170 of 1988, upon being found liable thereof in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than five hundred dollars(\$500.00) plus court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determines that there was good faith basis for the person, partnership, or corporation violating the Ordinance who believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to Quincy Township.

Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the Township the right to commence any action for enforcement pursuant to this Part.

B. In case any building, structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Part, the Township or, with the approval of the Township, an Officer of the Township, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation. When such action is instituted by a landowner or tenant, notice of that action shall be served upon the township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Board of Supervisors. No such action may be maintained until such notice has been given.

C. District Justices shall have initial jurisdiction over proceedings brought under Subsection A and B above. (Underlining supplied).

Pa.R.Crim.P. 454 provides in relevant part as follows:

Rule 454. Trial in Summary Cases

...

(D) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial.

...

For example, potential outcomes would be our affirmance of the judgment of fines imposed by the District Justice if we decline to quash the appeal; or remand with instructions to reconsider the matter of

imposition of penalty. In such case, there would be no additional fines, but there could be a substitution of different fines for the ones already imposed. In the event that we conclude that the Defendant's motion to quash should be denied and we entertain an evidentiary proceeding *de novo*, we would, in effect, be imposing our judgments of penalty, if any, in place of the judgments already made by the District Justice. In any event, the Defendant would not be twice punished for the same transgressions.

The Municipalities Planning Code provides, in pertinent part, that "[t]he board of supervisors may prescribe criminal fines not to exceed one thousand dollars (\$1,000) per violation and may prescribe imprisonment to the extent allowed by law for the punishment of summary offenses." 53 P.S. §66601(c.1)(2).

53 P.S. 66601(c.1) was enacted in 1996.