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Commonwealth v Painter, Jr.

Commonwealth of Pennsylvania v. Robert Stanley Painter, Jr. Defendant  
Court of Common Pleas of the 39th Judicial District of Pennsylvania, Fulton County Branch  
Criminal Action No. 200-2009; 174-2011; 101-2012

HEADNOTES

*Judges: Coordinate Jurisdiction Rule*

1. Under the "coordinate jurisdiction rule," trial judges sitting in the same case should not overrule each other's decisions.
2. The coordinate jurisdiction rule is part of the law of the case doctrine, and therefore applies alike to civil and criminal cases.
3. A court may depart from the coordinate jurisdiction rule only under extraordinary circumstances. Extraordinary circumstances exist where an intervening decision has changed applicable law, where applicable facts have substantively changed, or where the prior holding was clearly erroneous and would result in a manifest injustice if followed.
4. The coordinate jurisdiction rule bars a trial judge from revisiting, in post-sentence motions, another trial judge's decision to deny a motion to withdraw a plea of guilty or nolo contendere.

*Extradition and Detainers: Interstate Agreement on Detainers*

1. Interstate Agreement on Detainers (IAD) is an interstate compact that establishes procedures for the transfer of prisoners incarcerated in one jurisdiction to the temporary custody of another jurisdiction to face trial on pending charges. 42 Pa. C.S. § 9101.
2. A prisoner who agrees to be extradited under the IAD consents to be voluntarily returned to the sending state after adjudication of outstanding charges.
3. Under Pennsylvania law, outstanding charges are adjudicated after a judgment of sentence or a judgment of acquittal is entered.
4. The IAD does not require a receiving state to retain custody of a prisoner during the pendency of post-sentence motions or appeals, and a prisoner has no right under the IAD to have charges dismissed if returned to the sending state after sentencing.

Appearances:

Travis L. Kendall, Fulton County District Attorney

Philip J. Harper, Attorney for the Defendant

Robert Stanley Painter, Jr., Defendant

OPINION

Before Meyers, J.

**FACTS:**<sup>[1]</sup>

Defendant Robert Stanley Painter, Jr. pleaded guilty in case No. 174-2011 to theft by unlawful taking, a first-degree misdemeanor; and in case No. 101-2012 to perjury, a third-degree felony.<sup>[2]</sup> The plea bargain did not include an agreement as to sentence-length, but the Commonwealth agreed to nolle pros. the remaining charges of aggravated assault (two counts), persons not to possess firearms, terroristic threats (two counts), simple assault (two counts), recklessly endangering another person (two counts), summary harassment (two counts), receiving stolen property, criminal mischief, and false swearing in an official proceeding. Painter filed a motion to withdraw his plea, which the Honorable Richard J. Walsh denied on December 5, 2012. The same day, Judge Walsh sentenced Painter to 18 – 60

months for theft, and 36 – 84 months for perjury. The sentences are consecutive.

On December 17, 2012, Painter filed a post-sentence motion. The motion asked the Court to, among other things, reconsider its refusal to allow Painter to withdraw his guilty plea. Judge Walsh ordered the Commonwealth to file a response. Because Judge Walsh retired at the end of 2012, he set oral argument before the undersigned Judge, on February 12, 2013. At argument, the Court ordered supplemental briefing on whether the coordinate jurisdiction rule foreclosed this Judge from reconsidering Judge Walsh's prior rulings in this case. The supplemental briefs have been received, and the post-sentence motion is ripe for disposition.

## **DISCUSSION:**

### **1. Post-Sentence Motion to Withdraw Guilty Pleas**

Under the coordinate jurisdiction rule, judges of coordinate jurisdiction sitting in the same case cannot overrule each other's decisions. Commonwealth v. Starr, 664 A.2d 1326 (Pa. 1995). The coordinate jurisdiction rule is not a rule of "jurisdiction" per se, but rather is part of the law-of-the-case doctrine. Id. at 1331; Riccio v. Am. Republic Ins. Co., 683 A.2d 1226, 1229-30 (Pa. Super. 1996) (citing Starr, 664 A.2d at 1331), aff'd, 705 A.2d 422 (Pa. 1997). The law-of-the-case doctrine protects parties' expectations, ensures uniformity of decisions, maintains consistency within a case, streamlines justice, and brings litigation to an end. Starr, 664 A.2d at 1331. A court may depart from the coordinate jurisdiction rule only in exceptional circumstances: where an intervening decision has changed applicable law, where the applicable facts have substantially changed, or where the prior holding was clearly erroneous and would result in a manifest injustice if followed. Id. at 1332. The coordinate jurisdiction rule applies alike in criminal and civil cases. Riccio, 683 A.2d at 1230.

The Commonwealth argues—and Painter concedes—that the coordinate jurisdiction rule prevents the Court from reexamining Judge Walsh's denial of the motion to withdraw the guilty plea. The Court agrees with the parties. Judge Walsh denied the motion to withdraw based on his evaluation of the facts. Judge Walsh was intimately involved in this case. He conducted three separate half-day hearings on Painter's Rule 600 motion, received the guilty plea, and decided the motion to withdraw the plea. Indeed, Judge Walsh witnessed Painter's perjury, which occurred during one of those hearings. Furthermore, he based his denial of Painter's motion to withdraw the guilty plea on Painter's credibility. The Court sees no merit in revisiting that assessment. Furthermore, no exceptional circumstances exist which would justify departing from the coordinate jurisdiction rule. Whether Judge Walsh's decision is legally correct should be addressed by the Superior Court, which is in a better position to review alleged errors committed by a trial court.<sup>[3]</sup>

### **2. Interstate Agreement on Detainers**

Painter's argues that all charges should be dismissed because he was returned to Maryland before the "final adjudication" of his cases, in violation of the Interstate Agreement on Detainers (IAD). This argument lacks merit.

Judge Walsh previously found that Painter asked to be extradited to Pennsylvania to face trial. That ruling is the law of the case, and prevents Painter from challenging his return to Maryland. 42 Pa. C.S. § 9101, IAD Art. III(e) ("The request for final disposition shall also constitute . . . a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement."). Furthermore, the IAD contemplates the receiving state taking temporary custody to adjudicate outstanding charges.

The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution or any other charge or charges arising out of the same transaction.

Id. IAD Art. V(d). Painter's charges were adjudicated when the Court sentenced him, per Article V. Nothing in the IAD requires Pennsylvania to retain custody of Painter until his post-sentence motions and appeals are resolved.

The Court concludes that the coordinate jurisdiction rule prevents revisiting the prior decisions in this case. In addition, Painter's claim that charges should be dismissed on an imagined IAD violation lacks merit. Painter's post-sentence motion is denied.

## **ORDER OF COURT**

AND NOW THIS March, 2013, the Court having considered the Defendant's Post-Sentence Motions,

IT IS HEREBY ORDERED that the Defendant's Post-Sentence Motions are DENIED.

The Defendant is notified, pursuant to Pa. R. Crim. P. 720(B)(4), that he has the right to appeal this Order and said appeal must be filed within thirty (30) days after the issuance of this Order with the Fulton County Clerk of Courts Office, Fulton County Courthouse, 201 North Second St., McConnellsburg, PA 17233.

The Defendant is further notified that he has the right to assistance of counsel in the preparation of the appeal and, if the Defendant is indigent, he may appeal in forma pauperis and proceed with assigned counsel as provided in Pa. R. Crim. P. 122.

The Defendant is also notified that he has a qualified right to bail under Pa. R. Crim. P. 521(B).

Pursuant to Pa.R.Crim.P. 114, the Clerk of Courts shall immediately docket this Order and Opinion and record in the docket the date it was made. The Clerk shall forthwith furnish a copy of this Order and the foregoing Opinion, by mail or personal delivery, to each party or attorney, and shall record in the docket the time and manner thereof.

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[1]The facts presented in this Opinion are only those relevant to the issues raised in post-sentence motions.

[2]18 Pa. C.S. §§ 3921(a) and 4902(a).

[3]Neither supplemental brief addresses Painter's argument that he is owed credit for time spent in Maryland and West Virginia jails and prisons while allegedly under a detainer issued because of the instant case. Because of the coordinate jurisdiction rule the Court declines to address this claim. Painter can raise this claim on appeal, because it implicates sentence legality.