

COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania v. William and Nancy Clementi

No. 1381 C.D. 2019 (Pa. Cmwlth. July 6 2020) · No. No. 1381 C.D. 2019 · Decided July 6, 2020

SUMMARY

The Commonwealth Court of Pennsylvania held that the trial court erred in concluding it lacked jurisdiction to consider the Clementis' motion for reconsideration nunc pro tunc. The court explained that a motion for reconsideration in a summary appeal may be governed by 42 Pa.C.S. § 5505, and that a trial court may consider nunc pro tunc relief after the 30-day period upon a showing of extraordinary cause. The court vacated the trial court's orders and remanded for a determination regarding the original motion for reconsideration.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Patricia A. McCullough; Michael H. Wojcik; Ellen Ceisler
JURISDICTION	Pennsylvania
DECIDED	July 6, 2020
DOCKET	No. 1381 C.D. 2019
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from the Court of Common Pleas of Montgomery County's denial of the Clementis' Motion for Reconsideration Nunc Pro Tunc after convictions for the summary offense of harboring dangerous dogs.
STANDARD OF REVIEW	Whether the trial court properly exercised its discretion in denying a motion for reconsideration nunc pro tunc; the appellate court reviewed the legal conclusion regarding the trial court's authority and required factual findings concerning extraordinary cause.
PRECEDENTIAL VALUE	precedential
PARTIES	William Clementi, Nancy Clementi v. Commonwealth of Pennsylvania

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dangerous-dog regulation

QUESTIONS PRESENTED

1. Whether a defendant in a summary case following a trial de novo may file a motion for reconsideration governed by 42 Pa.C.S. § 5505 notwithstanding Pennsylvania Rule of Criminal Procedure 720(D).
2. Whether the trial court could consider a motion for reconsideration nunc pro tunc filed after the 30-day period based on alleged extraordinary cause or an administrative breakdown.
3. Whether the trial court erred by denying the nunc pro tunc motion without making factual findings regarding the alleged procedural breakdowns.

HOLDINGS

1. A motion for reconsideration may be filed in a summary appeal following a trial de novo; although Pennsylvania Rule of Criminal Procedure 720(D) bars post-sentence motions in that circumstance, the official comment preserves a petition for reconsideration governed by 42 Pa.C.S. § 5505.
2. Expiration of the 30-day period under 42 Pa.C.S. § 5505 does not preclude a trial court from addressing a motion for reconsideration nunc pro tunc when the moving party alleges extraordinary cause justifying intervention.
3. The trial court erred by denying the Motion for Reconsideration Nunc Pro Tunc solely on the belief that it lacked jurisdiction after 30 days; it was required to determine factually whether the alleged scheduling error and other asserted breakdowns constituted extraordinary cause.

KEY QUOTATIONS

“Although there are no post-sentence motions in summary appeals following the trial de novo pursuant to paragraph (D), nothing in this rule is intended to preclude the trial judge from acting on a defendant's petition for reconsideration.” (at 7)

“Thus, the trial court was wrong to conclude that the original Motion for Reconsideration was procedurally invalid under Rule 720(D).” (at 8)

“As such, the trial court should have considered the Clementis’ Motion for Reconsideration Nunc Pro Tunc and decided whether they established “extraordinary cause justifying intervention by the court.”” (at 10)

FACTUAL BACKGROUND

The Clementis' two German Shepherds escaped their yard and attacked children and adults waiting for a school bus. The Clementis were convicted of harboring dangerous dogs after a trial de novo in the Court of Common Pleas, which imposed sentence on December 20, 2018. They filed a motion for reconsideration within the applicable 30-day period, but the trial court scheduled argument after that period expired and later refused to consider the motion or their request for nunc pro tunc relief.

PROCEDURAL HISTORY

The Clementis were convicted before a Magisterial District Judge and then convicted following a trial de novo in the Montgomery County Court of Common Pleas, which imposed sentence on December 20, 2018. They filed a timely motion for reconsideration, and the trial court scheduled argument beyond the 30-day period in which it could modify its order. The trial court later denied both the original reconsideration request and the nunc pro tunc motion on jurisdictional grounds. The Superior Court transferred the appeal to the Commonwealth Court, which vacated the trial court's orders and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the February 8, 2019 and May 15, 2019 orders and remand for the trial court to determine, including through factual findings as appropriate, whether extraordinary circumstances justify nunc pro tunc relief and to rule on the Clementis' original Motion for Reconsideration of the sentencing order. Jurisdiction was relinquished.

CASES CITED

- Commonwealth v. Hake, 738 A.2d 46, 47 n.3 (Pa. Cmwlth. 1999), appeal denied, 749 A.2d 473 (Pa. 2000)
- Commonwealth v. Dougherty, 697 A.2d 779, 784 (Pa. Super. 1996)
- Commonwealth v. Gross, 101 A.3d 28, 32 (Pa. 2014)
- Commonwealth v. Bethea, 828 A.2d 1066, 1074 (Pa. 2003)
- Blair v. Blair, 171 A.2d 854, 855 (Pa. Super. 1961)
- Commonwealth v. Moir, 766 A.2d 1253, 1254 (Pa. Super. 2000)
- In re Upset Price Tax Sale of September 25, 1989, 615 A.2d 870 (Pa. Cmwlth. 1992)
- Stockton v. Stockton, 698 A.2d 1334, 1337 (Pa. Super. 1997)
- Fulton v. Bedford County Tax Claim Bureau, 942 A.2d 240, 242 n.3 (Pa. Cmwlth. 2008)
- Orie v. Stone, 601 A.2d 1268 (Pa. Super. 1992)
- Simpson v. Allstate Insurance Co., 504 A.2d 335 (Pa. Super. 1986)
- Seropian v. State Ethics Commission, 20 A.3d 534, 540-43 (Pa. Cmwlth. 2011)
- Monroe County Board of Assessment Appeals v. Miller, 570 A.2d 1386, 1388 (Pa. Cmwlth. 1990)
- Commonwealth v. Bogden, 528 A.2d 168, 170 (Pa. Super. 1987)
- Commonwealth v. Anwyll, 482 A.2d 656, 657 (Pa. Super. 1984)
- Commonwealth v. Perez, No. 1391 C.D. 2017 (Pa. Cmwlth. Jan. 9, 2019) (unreported)
- Union Electric Corporation v. Board of Property Assessment Appeals and Review of Allegheny County, 746 A.2d 581, 584 (Pa. 2000)

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