

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Rose

623 Pa. 241 (Pa. 2013) (Pa. 2013) · Decided December 17, 2013

SUMMARY

The Pennsylvania Supreme Court vacated the Superior Court’s decision affirming the denial of Anthony Rose’s PCRA petition and remanded the matter to the Lackawanna County Court of Common Pleas. The Court directed the clerk to comply with Pennsylvania Rule of Appellate Procedure 905 concerning docketing and transmitting Rose’s pro se notice of direct appeal, after which the lower courts were to determine the appeal’s timeliness and whether an evidentiary hearing was warranted.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Per Curiam; Baer; Castille; Eakin; McCaffery; Saylor; Stevens; Todd
JURISDICTION	Pennsylvania
DECIDED	December 17, 2013
DISPOSITION	vacated
PROCEDURAL POSTURE	The Supreme Court of Pennsylvania reviewed the Superior Court's decision affirming the denial of Anthony Rose's petition under the Post Conviction Relief Act. The record showed that Rose had filed a pro se notice of direct appeal from his judgment of sentence, but the Lackawanna County Court of Common Pleas failed to docket, time-stamp, or certify the notice for appellate review.
PRECEDENTIAL VALUE	Published Pennsylvania Supreme Court decision
PARTIES	Anthony Rose v. Commonwealth of Pennsylvania

TOPICS

- appellate procedure
- post-conviction relief
- state post-conviction relief
- criminal procedure

PRACTICE AREAS

- criminal procedure
- appellate procedure
- post-conviction relief

QUESTIONS PRESENTED

1. Whether the Court of Common Pleas was required to docket and time-stamp Rose's notice of appeal under Pennsylvania Rule of Appellate Procedure 905.
2. Whether the Superior Court's affirmance of the denial of Rose's PCRA petition should be vacated because the lower court failed to process Rose's notice of direct appeal.
3. Whether the lower courts should determine the timeliness of Rose's direct appeal and whether an evidentiary hearing was warranted.

HOLDINGS

1. The clerk of the Court of Common Pleas was required to immediately stamp Rose's notice of appeal with the date of receipt, show that date on the docket, and transmit a copy of the notice to the appellate prothonotary as required by Pennsylvania Rule of Appellate Procedure 905.
2. The Superior Court's decision was vacated because the lower court's failure to process Rose's notice of direct appeal prevented proper consideration of the appeal's timeliness and related post-conviction issues.
3. The Supreme Court could direct the Court of Common Pleas to ensure that its clerk complied with Pennsylvania's appellate-procedure rules.

KEY QUOTATIONS

“Pursuant to our general supervisory and administrative authority over all of the lower courts, we direct the Court of Common Pleas to ensure the clerk of court abides by our explicit rules of appellate procedure, as set forth in Pennsylvania Rule of Appellate Procedure 905, supra, as it pertains to Appellant’s notice of appeal from his judgment of sentence.” (82 A.3d at 426)

FACTUAL BACKGROUND

Rose filed a pro se notice of direct appeal from his judgment of sentence. The clerk of the Lackawanna County Court of Common Pleas inexplicably failed to docket, time-stamp, or otherwise certify the notice of appeal for appellate review. Because the record did not permit a determination of the appeal's timeliness, the Supreme Court directed corrective proceedings in the lower courts.

PROCEDURAL HISTORY

The Lackawanna County Court of Common Pleas denied Rose's PCRA petition. The Superior Court affirmed. The Pennsylvania Supreme Court vacated the Superior Court's decision and remanded to the Court of Common Pleas of Lackawanna County for further proceedings, including compliance with Pennsylvania Rule of Appellate Procedure 905 and determination of the timeliness of Rose's direct appeal and whether an evidentiary hearing was warranted.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Court of Common Pleas of Lackawanna County must ensure that its clerk complies with Pennsylvania Rule of Appellate Procedure 905 as to Rose's notice of appeal, after which the lower courts must determine the timeliness of the direct appeal and whether a remand for an evidentiary hearing is warranted. Jurisdiction was relinquished.

CASES CITED

- In re Administrative Order No. 1-MD-2003, 594 Pa. 346, 936 A.2d 1 (2007)
- Payne v. Commonwealth Department of Corrections, 582 Pa. 375, 871 A.2d 795 (2005)
- Commonwealth v. Morris, 565 Pa. 1, 771 A.2d 721 (2001)
- Commonwealth v. Morgan, 469 Pa. 35, 364 A.2d 891 (1976)
- Commonwealth v. Jones, 549 Pa. 58, 700 A.2d 423 (1997)

OPINION

PER CURIAM.

ORDER PER CURIAM. AND NOW, this 17th day of December, 2013, as specified herein, the Superior Court's decision, which affirmed the denial of Appellant Anthony Rose's petition filed *427 under the PCRA,¹ is VACATED and the case is REMANDED to the Court of Common Pleas of Lackawanna County for further proceedings.

The record certified to this Court contains a pro se notice of direct appeal from Appellant's judgment of sentence, which the Lackawanna County Court of Common Pleas inexplicably failed to docket, time-stamp, or otherwise certify for review. See Pa.R.A.P. 905(a) ("Upon receipt of the notice of appeal the clerk shall immediately stamp it with the date of receipt, and that date shall be shown on the docket."); Pa.R.A.P.

905(b) ("The clerk shall immediately transmit to the prothonotary of the appellate court... a copy of the notice of appeal showing the date of receipt[.]"). Pursuant to our general supervisory and administrative authority over all of the lower courts, we direct the Court of Common Pleas to ensure the clerk of court abides by our explicit rules of appellate procedure, as set forth in Pennsylvania Rule of Appellate Procedure 905, *supra*, as it pertains to Appellant's notice of appeal from his judgment of sentence.

See Pa. Const, art. V, § 10;² In re Administrative Order No. 1-MD-2003, 594 Pa. 346, 936 A.2d 1 (2007) (holding clerk of courts, similar to prothonotaries, are clerks of the court of common pleas with no judicial power); Payne v. Commonwealth Dept. of Corrections, 582 Pa. 375, 384, 871 A.2d 795, 801 (2005) ("This Court's power to establish rules of procedure for state courts is exclusive.") (citing Commonwealth v. Morris, 565 Pa. 1, 771 A.2d 721 (2001)); Commonwealth v. Morgan, 469 Pa. 35, 364 A.2d 891, 892 n. 2 (1976) (trial courts have a "responsibility to supervise

their personnel and to assure that those persons under their charge responsibly and expeditiously perform their assigned tasks”).

Thereafter, a determination of timeliness regarding Appellant’s direct appeal from his judgment of sentence, and whether a remand for an evidentiary hearing is warranted with regard thereto, may be made by the courts below; See *Commonwealth v. Jones*, 549 Pa. 58, 700 A.2d 423 (1997) (explaining prisoner mailbox rule and indicating a remand for an evidentiary hearing may be warranted where timeliness is at issue).

Accordingly, it is hereby ORDERED that the Superior Court’s decision which is before us for review is hereby VACATED and the case is REMANDED to the Lack-awanna County Court of Common Pleas for further proceedings. Jurisdiction is relinquished. Justice SAYLOR files a dissenting statement in which Chief Justice CASTILLE and Justice TODD join.. Post Conviction Relief Act (PCRA), 42 Pa. C.S. §§ 9541-46..

Article V, Section 10-Judicial Administration. (a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts [...]. (c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts... and supervision of all officers of the Judicial Branch [...].