

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

JOHN MCCLINTIC

Appellant

No. 2877 EDA 2022

Appeal from the PCRA Order Entered October 17, 2022
In the Court of Common Pleas of Philadelphia County
Criminal Division at No: CP-51-CR-0801571-2002

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

JOHN MCCLINTIC

Appellant

No. 2878 EDA 2022

Appeal from the PCRA Order Entered October 17, 2022
In the Court of Common Pleas of Philadelphia County
Criminal Division at No: CP-51-CR-0801581-2002

BEFORE: BOWES, J., STABILE, J., and DUBOW, J.

JUDGMENT ORDER BY STABILE, J.:

FILED JANUARY 23, 2024

On December 31, 2018, Appellant, John McClintic, filed a petition for collateral relief pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541-9546. On July 29, 2020, the Honorable Tracy Brandeis-Roman granted an evidentiary hearing on five claims. The Commonwealth filed a motion to reconsider. No formal order denying the motion was entered.

Rather, the court proceeded to schedule the evidentiary hearing. Subsequently, the court granted counsel's request to withdraw. New counsel was appointed and filed an amended petition.

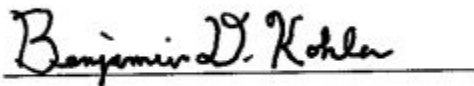
On September 27, 2022, the Honorable Scott DiClaudio issued a Rule 907(1) notice of his intent to dismiss the petition. By order entered October 17, 2022, the petition was dismissed. This timely appeal followed.

Appellant and the PCRA court request that we remand this matter for an evidentiary hearing in light of the coordinate jurisdiction rule. The Commonwealth does not oppose the request. In light of the coordinate jurisdiction rule, a remand is proper. ***See Commonwealth v. King***, 999 A.2d 598 (Pa. Super. 2010) (coordinate jurisdiction violated when one judge ordered a hearing on a PCRA petition and, after reassignment of the case, a second judge dismissed the petition without a hearing).

Therefore, we vacate the October 17, 2022 order and remand for the court to conduct an evidentiary hearing.

Order vacated. Case remanded. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 1/23/2024