

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
 :
 vs. : NO. 04-11,854
 :
 BENTON COLVIN, :
 :
 Defendant : 1925(a) OPINION

Date: March 10, 2005

**OPINION IN SUPPORT OF THE ORDER OF January 12, 2005 IN COMPLIANCE
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

Defendant has appealed this court's January 12, 2005 order, which denied his petition to proceed without payment of fees and costs. The petition was filed in relation to Defendant's appeal of two summary citations. The court denied the petition to proceed in forma pauperis because the underlying appeal had no merit since Defendant was not serving a sentence related to the summary offenses.

Defendant filed a Notice of Appeal on February 14, 2005. On February 23, 2005, this court issued an order in compliance with Pa.R.A.P. 1925(b) directing Defendant to file a Concise Statement of Matters Complained of on Appeal within fourteen days. The court received Defendant's Statement of Matters on March 9, 2005.

After reviewing the Statement of Matters, the Court concludes that Defendant has not raised any issues that would necessitate a reversal of the January 12, 2005 order. In the Statement of Matters, Defendant raises several issues relating to errors concerning his summary offenses and unfounded allegations regarding this court, but fails to address the justiciability of

his underlying appeal. “The general rule is that an actual case or controversy must exist at all stages of appellate review.” *Commonwealth v. Smith*, 486 A.2d 445, 447 (Pa. Super. 1984). The existence of an actual controversy is essential to appellate jurisdiction, and if “... an event occurs which renders it impossible for the appellate court to grant any relief, the appeal will be dismissed.” *Ibid.* “It is well established that the appellate courts of this Commonwealth will not decide moot or abstract questions.” *Ibid.*

Defendant’s appeal of his summary offenses presents a non-justiciable issue since the appeal is moot. As stated in this court’s January 12, 2005 order, Defendant has served his sentence regarding the summary offenses. Any issues related to the summary offenses and sentence have been mooted by Defendant serving the sentence. This court, or any court, cannot give relief from a sentence that has already been served.

Accordingly, the January 12, 2005 order should be affirmed and the appeal denied.

BY THE COURT,

William S. Kieser, Judge

cc: District Attorney
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Judges
Christian Kalas, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)