

**IN THE COURT OF COMMON PLEAS, MONTGOMERY COUNTY,
PENNSYLVANIA – CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA	:	CP-46-CR-0006239-2015
	:	
	:	CP-46-CR-0008423-2015
v.	:	
	:	
KATHLEEN GRANAHAN KANE	:	

CLERK OF COURTS
OFFICE
MONTGOMERY COUNTY
PENNSYLVANIA
2018 NOV 27 PM 12:06

MOTION TO REVOKE BAIL

TO THE HONORABLE WENDY DEMCHICK-ALLOY, J.:

The District Attorney of Montgomery County, Kevin R. Steele, hereby submits the following *Motion to Revoke Bail* in the above-captioned cases:

1. In 2016, this Court presided over defendant Kathleen Granahan Kane’s six-day jury trial. The jury convicted her of all nine charges, including two counts of perjury and two counts of obstructing the administration of law.
2. Later the same year, this Court sentenced defendant to an aggregate term of 10 to 23 months incarceration and a consecutive eight years of probation. Defendant requested, and this Court granted, bail pending direct appeal.
3. The Pennsylvania Superior Court affirmed the judgment of sentence on May 25, 2018; and yesterday the Pennsylvania Supreme Court denied defendant’s petition of allowance of appeal (order attached as “Exhibit A”).

4. Defendant no longer has any right to bail. A trial court retains the authority to grant bail while a defendant is pursuing a direct appeal from his or her judgment of sentence. Pa.R.A.P. 1762(a). But that authority ends once the judgment of sentence becomes final—it does not extend to federal or post-conviction proceedings. *See Commonwealth v. Dunlavey*, 805 A.2d 562, 565 (Pa. Super. 2002) (“a lower court’s power to set bail is valid until the defendant’s direct appeal rights are exhausted”); *see also* Comment to Pa.R.Crim.P. 534 (explaining that a bail bond may remain valid “through all avenues of direct appeal **in the state courts**, but to exclude state post-conviction collateral proceedings, federal appeals and post conviction *habeas corpus* proceedings, or any other collateral attacks”) (emphasis added).

5. Because defendant has exhausted her direct appeal rights “in the state courts,” *id.*, she is no longer entitled to bail. In fact, the law forbids it. *See Dunlavey, supra.*

6. Defendant may argue that this Court retains discretion to permit her to remain on bail while she seeks further state review. That is only possible through an application for reconsideration under Pa.R.A.P. 1123(b). That rule states that “[a]pplications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances.” *Id.* Such applications are “confined to intervening circumstances of substantial or controlling effect.” *Id.* at 1123(b)(1). Another restriction is that counsel is required to certify that the application is “presented in good faith and not for delay.” *Id.* at 1123(b)(2). This discouraged

avenue of appeal is so extraordinary that it is not a normal part of the direct appeal process. As a result, the Pennsylvania Supreme Court's denial of discretionary review should be considered the conclusion of defendant's avenues for direct appeal in state court.

7. In any event, even if Rule 1123 extends the lifetime of the bail bond, this Court retains jurisdiction to revoke bail. There are no "intervening circumstances of substantial or controlling effect," and so an application for reconsideration would be solely for delay. Pa.R.A.P. 1123(b)(1). Defendant has been on bail pending appeal for more than two years. Two different appellate courts have reviewed her case, yet her judgment of sentence remains. She received a fair trial, her guilt was proven beyond a reasonable doubt, and now it is time for her to serve her sentence.

WHEREFORE, the Commonwealth respectfully requests that this Court revoke defendant's bail and that she report to the Montgomery County Correctional Facility forthwith.

RESPECTFULLY SUBMITTED:



KEVIN R. STEELE
DISTRICT ATTORNEY

EXHIBIT "A"

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA,

Respondent

v.

KATHLEEN GRANAHAN KANE,

Petitioner

No. 414 MAL 2018

Petition for Allowance of Appeal from
the Order of the Superior Court

ORDER

PER CURIAM

AND NOW, this 26th day of November, 2018, the Petition for Allowance of Appeal is **DENIED**.

Movant Stan J. Caterbone's "Request to Appear Pro Se and to File an *Amicus Curiae* Brief" in support of petitioner is **DENIED**.

A True Copy Elizabeth E. Zisk
As Of 11/26/2018

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

VERIFICATION

I, Kevin R. Steele, District Attorney of Montgomery County, declare under penalty of perjury that the statements herein are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities



KEVIN R. STEELE
DISTRICT ATTORNEY

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PUBLIC ACCESS POLICY CERTIFICATON

I certify that this filing complies with the provisions of the *Public Access Policy of the Uniform Judicial Systems of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.



KEVIN R. STEELE
DISTRICT ATTORNEY

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KATHLEEN GRANAHAN KANE

CERTIFICATE OF SERVICE

I, Kevin R. Steele, District Attorney of Montgomery County, being duly sworn according to law, depose and say that a true and correct copy of the Commonwealth's Motion To Revoke Bail will be delivered to the following:

PERSONAL SERVICE:

The Honorable Wendy Demchick-Alloy
Judicial Chambers
Montgomery County Courthouse
Norristown, PA 19404

VIA EMAIL & FIRST-CLASS MAIL:

Joshua D. Lock, Esquire
106 Walnut Street
Harrisburg, PA 17101
jdl@jdllaw.net



KEVIN R. STEELE
DISTRICT ATTORNEY

DATE: _____

11/27/18

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