

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

MATTHEW WARD PHELAN,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1255 EDA 2012

Appeal from the Order Entered March 21, 2012  
In the Court of Common Pleas of Lehigh County  
Criminal Division at No(s):CP-39-CR-0003558-2004

BEFORE: FORD ELLIOTT, P.J.E., BENDER, J., and SHOGAN, J.

MEMORANDUM BY BENDER, J.:

Filed: January 28, 2013

Appellant, Matthew Ward Phelan, appeals from the court's March 21, 2012 order dismissing his "Motion to Compel of Defendant, Matthew Ward Phelan." We affirm.

We have examined the certified record, the briefs of the parties, and the applicable law. Additionally, we have reviewed the opinion of the Honorable Robert L. Steinberg of the Court of Common Pleas of Lehigh County. We conclude that Judge Steinberg's well-reasoned opinion accurately disposes of the issue presented by Appellant. In particular, we agree with Judge Steinberg that based on the allegations presented in Appellant's motion to compel, the only relief the court could properly grant would be to reinstate Appellant's right to appeal *nunc pro tunc* from the denial of his fourth petition for post conviction relief filed pursuant to the

Post Conviction Relief Act, 42 Pa.C.S. §§ 9541-9546. However, Appellant did not request this remedy but, rather, asked the court to compel the Assistant District Attorney to interview him regarding his claim that his co-defendant committed perjury at their trial. For the reasons stated by Judge Steinberg in his opinion, it was appropriate for the court to deny this requested relief. Accordingly, we adopt Judge Steinberg's opinion as our own and affirm the order denying Appellant's "Motion to Compel of Defendant, Matthew Ward Phelan" on that basis.

Order affirmed.