

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,		IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellee		
v.		
MILTON JAMES CAMPBELL,		
Appellant		No. 1571 WDA 2012

Appeal from the Judgment of Sentence August 28, 2012  
In the Court of Common Pleas of Erie County  
Criminal Division at No(s): CP-25-CR-0000104-2012

BEFORE: STEVENS, P.J., BOWES, and MUSMANNNO, JJ.

MEMORANDUM BY BOWES, J.:

FILED: May 8, 2013

Milton James Campbell appeals from the judgment of sentence of one year and three months to two years and six months incarceration imposed by the trial court after he pled guilty to possession with intent to deliver (PWID) cocaine. Counsel has filed a petition to withdraw from representation and a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *Commonwealth v. Santiago*, 978 A.2d 349 (Pa. 2009). We grant counsel's petition to withdraw and affirm.

Following the unsuccessful litigation of a suppression motion, Appellant pled guilty to one count of PWID cocaine. In exchange, the Commonwealth agreed to *nolle prosequere* a conspiracy to commit PWID cocaine charge as well as charges of simple possession of cocaine, possession of drug paraphernalia, and possession of a small amount of marijuana. Additionally,

the Commonwealth agreed not to seek a mandatory minimum sentence. The facts giving rise to the plea involved a drug sale of 12.3 grams of cocaine at 807 Chestnut Street in Erie, Pennsylvania to a confidential informant.

After Appellant pled guilty, the sentencing court placed on the record that it considered a pre-sentence report, the sentencing guidelines, statements from defense counsel and letters received from both Appellant and those sent on his behalf. It noted Appellant had a prior record score of five, which included seventeen adult criminal convictions, and he was on parole at the time of the commission of this crime. The court then imposed the aforementioned sentence. This timely appeal ensued. The trial court directed Appellant to file and serve a Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal. Appellant complied, and the trial court authored its Pa.R.A.P. 1925(a) opinion. Counsel now files an ***Anders/Santiago*** brief and petition to withdraw.

Initially, we note that we may not address the merits of the issue raised on appeal without first reviewing the request to withdraw. ***Commonwealth v. Rojas***, 874 A.2d 638, 639 (Pa.Super. 2005). Therefore, we review counsel's petition at the outset. Our Supreme Court's decision in ***Santiago, supra***, did not alter the procedural requirements counsel must satisfy in requesting to withdraw from representation. Counsel must: 1) petition the court for leave to withdraw stating that, after making a

conscientious examination of the record, counsel has determined that the appeal would be frivolous; 2) furnish a copy of the brief to the defendant; and 3) advise the defendant that he or she has the right to retain private counsel or raise additional arguments that the defendant deems worthy of the court's attention. **Commonwealth v. Lilley**, 978 A.2d 995, 997 (Pa.Super. 2009).

Herein, counsel's petition to withdraw from representation states that she reviewed the record and concluded that there are no issues of merit. Additionally, counsel notified Appellant that she was withdrawing and furnished Appellant with copies of the petition to withdraw and **Anders** brief, and advised Appellant of his right to retain new counsel or proceed *pro se* to raise any points he believes worthy of this Court's attention. Accordingly, counsel has satisfied the procedural requirements of **Anders**.

Having concluded that counsel has complied with the procedural mandates of **Anders**, we now determine whether counsel's **Anders** brief meets the substantive dictates of **Santiago**. According to **Santiago**:

in the **Anders** brief that accompanies court-appointed counsel's petition to withdraw, counsel must: (1) provide a summary of the procedural history and facts, with citations to the record; (2) refer to anything in the record that counsel believes arguably supports the appeal; (3) set forth counsel's conclusion that the appeal is frivolous; and (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

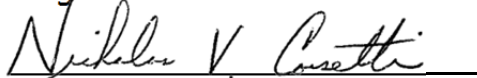
**Santiago, supra** at 361.

Instantly, counsel provided the facts and procedural history of the case. Additionally, she refers to a suppression claim as an issue that could arguably support the appeal, and concludes that the issue is wholly frivolous. She reasons that the issue is frivolous because Appellant pled guilty and, by doing so, limited any challenges on appeal to the voluntariness of his plea, the jurisdiction of the court, and the legality of his sentence. We agree.

It is well-established that a guilty plea precludes challenges that do not relate to the entry of the plea itself, *i.e.*, whether it was knowingly, intelligently, and voluntarily entered, the jurisdiction of the court, and the legality of the sentence. ***Commonwealth v. Main***, 6 A.3d 1026 (Pa.Super. 2010). Since Appellant pled guilty rather than proceed to a non-jury or jury trial, his claim is waived. In addition, our independent review of the record confirms that Appellant's sentence did not exceed the statutory maximum, that the court had jurisdiction, and the prosecutor colloquied Appellant regarding his legal rights. Accordingly, we agree that no preserved non-frivolous issues exist.

Judgment of sentence affirmed. Emily E. Mosco, Esq. petition to withdraw is granted. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in cursive script, reading "Nicholas V. Casetta", written over a horizontal line.

Deputy Prothonotary

Date: 5/8/2013

