

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

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| COMMONWEALTH OF PENNSYLVANIA, | : | IN THE SUPERIOR COURT OF |
| | : | PENNSYLVANIA |
| Appellee | : | |
| | : | |
| v. | : | |
| | : | |
| NATASHA MATTIS, | : | |
| | : | |
| Appellant | : | No. 1755 EDA 2010 |

Appeal from the PCRA Order May 21, 2010
 In the Court of Common Pleas of Philadelphia County
 Criminal Division No(s): CP-51-CR-0002106-2008, CP-51-CR-0013322-
 2008, CP-51-CR-0013352-2008, MC-51-CR-0047336-2007

BEFORE: GANTMAN, OLSON, and FITZGERALD,* JJ.

MEMORANDUM BY FITZGERALD, J.: Filed: January 15, 2013

Appellant, Natasha Mattis, appeals from the order entered in the Philadelphia County Court of Common Pleas denying her first Post Conviction Relief Act¹ ("PCRA") petition. We grant counsel's petition to withdraw and affirm the order below.

On September 9, 2007, Appellant and her co-defendant, Suzette Jackson, repeatedly stabbed the victim with scissors and a broken bottle. Crim. Compl., 10/10/07, at 2.² The victim suffered numerous stab wounds

* Former Justice specially assigned to the Superior Court.

¹ 42 Pa.C.S. §§ 9541-9546.

² The record did not include the trial transcript.

and a collapsed lung. *Id.* The trial court opined that it was “one of the most brutal stabbings [it] had ever seen.” Commonwealth’s Brief at 1 (quoting N.T. Trial, 11/25/08, at 51). A month later, Appellant threatened to kill the victim if she went to court. *Id.* (citing N.T. at 21). Sometime in 2008, Appellant again assaulted the victim. *Id.* (citing N.T. at 19).

After a waiver trial, Appellant was found guilty of aggravated assault, simple assault, criminal conspiracy, possession of an instrument of crime, and reckless endangerment. Appellant also pleaded guilty to intimidation of a witness, criminal conspiracy, retaliation against a victim, possession of an instrument of a crime, and violation of a protection order. On November 25, 2008, the court sentenced Appellant to four to eight years in prison, followed by ten years of probation. Trial Ct. Op., 1/7/10, at 1. Appellant did not file a direct appeal.

On February 12, 2009,³ Appellant filed a timely *pro se* PCRA petition. The court appointed counsel, who filed an amended PCRA petition on September 11, 2009. The amended petition alleged that the Commonwealth offered a sentence of eleven-and-a-half to twenty-three months in prison, she was unaware of the offer, and that trial counsel was ineffective for

³ The envelope containing Appellant’s petition was postmarked on this date. **See generally Commonwealth v. Wilson**, 911 A.2d 942, 944 n.2 (Pa. Super. 2006) (discussing prisoner mailbox rule).

failing to inform her about the offer. Amended Pet. Under PCRA, 9/11/09, at 2.

The PCRA court held an evidentiary hearing, at which Appellant, her pre-trial appointed counsel, and her retained trial counsel testified. The PCRA court credited counsels' testimony that Appellant was advised of the offer and discredited Appellant's testimony that she was not informed of the offer. N.T. PCRA Hr'g, 5/21/10, at 82-84. On May 21, 2010, the court denied Appellant's PCRA petition.

Appellant filed a timely notice of appeal on June 21, 2010, and timely filed a court-ordered Pa.R.A.P. 1925(b) statement. On June 24, 2011, Appellant's counsel filed an **Anders**⁴ petition to withdraw. In **Commonwealth v. Widgins**, 29 A.3d 816 (Pa. Super. 2011), this Court observed:

Counsel filed a brief pursuant to **Anders v. California**, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), apparently in the mistaken belief that an **Anders** brief is required where counsel seeks to withdraw on appeal from the denial of PCRA relief. A **Turner/Finley** no-merit letter, however, is the appropriate filing. **See Commonwealth v. Turner**, 518 Pa. 491, 544 A.2d 927 (1988); **Commonwealth v. Finley**, 379 Pa. Super. 390, 550 A.2d 213 (1988) (*en banc*). Because an **Anders** brief provides greater protection to a defendant, this Court may accept an **Anders** brief in lieu of a **Turner/Finley** letter. **Commonwealth v. Fusselman**, 866 A.2d 1109, 1111 n.3 (Pa. Super. 2004).

⁴ **Anders v. California**, 386 U.S. 738 (1976).

Id. at 817 n.2. In the case at bar, although Appellant’s counsel mistakenly filed an *Anders* petition, we accept it in place of a *Turner/Finley* letter. *See id.* Appellant did not file a response to counsel’s petition to withdraw. Accordingly, we examine the merits of the appeal.

Appellant contends that she was unaware of the Commonwealth’s offer of a sentence of eleven-and-a-half to twenty-three months in prison in exchange for a plea of guilty. Amended Pet. Under PCRA at 2. We hold Appellant is not entitled to relief.

“On appeal from the denial of PCRA relief, our standard and scope of review is limited to determining whether the PCRA court’s findings are supported by the record and without legal error.” *Commonwealth v. Abu-Jamal*, 941 A.2d 1263, 1267 (Pa. 2008). Furthermore, where there is support for a PCRA court’s credibility determinations, the reviewing court is bound by those determinations. *Commonwealth v. Abu-Jamal*, 720 A.2d 79, 93 (Pa. 1998).

[C]ounsel is presumed to have provided effective representation unless the PCRA petitioner pleads and proves that: (1) the underlying claim is of arguable merit; (2) counsel had no reasonable basis for his or her conduct; and (3) Appellant was prejudiced by counsel’s action or omission. To demonstrate prejudice, an appellant must prove that a reasonable probability of acquittal existed but for the action or omission of trial counsel. A claim of ineffective assistance of counsel will fail if the petitioner does not meet any of the three prongs. Further, a PCRA petitioner must exhibit a concerted effort to develop his ineffectiveness claim and may not rely on boilerplate allegations of ineffectiveness.

Commonwealth v. Perry, 959 A.2d 932, 936 (Pa. Super. 2008)
(punctuation marks and citations omitted).

Instantly, the PCRA court weighed the testimony of Appellant and both of her counsel. The PCRA court explicitly credited their testimony that Appellant was aware of the plea and discredited Appellant's testimony that she was unaware. N.T. PCRA Hr'g at 82-84. Because the record substantiates the PCRA court's credibility determinations, we are bound by them. ***See Abu-Jamal***, 720 A.2d at 93. Because the underlying claim lacks arguable merit, Appellant cannot establish ineffective assistance of counsel. ***See Perry***, 959 A.2d at 936. Accordingly, we grant the motion to withdraw and affirm the order below. ***See Abu-Jamal***, 941 A.2d at 1267.

Counsel's motion to withdraw granted. Order affirmed.