NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
ALAN RICHARD WEIST,	:	
	:	
Appellant	:	No. 1993 EDA 2012

Appeal from the PCRA Order Entered June 1, 2012,
In the Court of Common Pleas of Pike County,
Criminal Division, at No. CP-52-CR-0000240-2009.

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

MEMORANDUM BY SHOGAN, J.: **FILED MAY 15, 2013**

Appellant, Alan Richard Weist, appeals *pro se* from the order denying his petition for relief filed pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541-9546. We affirm.

Appellant was charged with four (4) counts each of rape of a child,[1] statutory sexual assault,[2] corruption of minors,[3] and eight (8) counts of indecent assault.[4] On January 7, 2011, Appellant entered a guilty plea to two of the rape charges. The plea agreement provided for a minimum of

[1] 18 Pa.C.S.A. § 3121(c).

[2] 18 Pa.C.S.A. § 3122.1(a)(1).

[3] 18 Pa.C.S.A. § 6301(a).

[4] 18 Pa.C.S.A. §§ 3126(a)(7), 3126(a)(8).

seven years and a maximum of twenty years on each count, and ordered that the terms be served consecutively. Pursuant to the agreement, the remaining eighteen counts against Appellant were dismissed. On March 31, 2011, Appellant was sentenced in accordance with the plea agreement.

At the time of sentencing, Appellant made a verbal motion to withdraw his guilty plea, which was denied. Subsequently, Appellant's counsel filed a second motion seeking to withdraw the guilty plea. That motion was also denied. Appellant filed a direct appeal to this Court but failed to perfect his appeal.

On December 14, 2011, Appellant, *pro se*, filed a PCRA petition. On December 20, 2011, PCRA counsel was appointed. Counsel filed a motion to withdraw pursuant to ***Turner/Finley***[5] on March 2, 2012. On March 20, 2012, PCRA counsel was permitted to withdraw. After Appellant filed a *pro se* objection to the dismissal of the PCRA petition, the PCRA court conducted a hearing on May 8, 2012. After the hearing, the PCRA court dismissed Appellant's petition by order entered June 1, 2012. On June 18, 2012, Appellant, *pro se*, filed the instant appeal.

Appellant raises the following issues on appeal:

> 1. Was the Appellant denied an opportunity to amend his PCRA petition, in a timely fashion, under Pa.R.Crim.Proc. 905(A)?

[5] ***See Commonwealth v. Turner***, 544 A.2d 927 (Pa. 1988); ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988) (*en banc*).

2. Defense counsel was ineffective for denying his client's wishes for trial, as the client continually asserted his innocence. The contradictory evidence, which was available for trial, would have raised reasonable doubt with the jury and found the Appellant innocent. Did counsel's failure breach not only his client's Sixth and Fourteenth Amendment trial rights; but, the client's and the public's First and Fourteenth Amendment rights to trial; and, his client's right to the effective assistance of counsel under the Sixth and Fourteenth Amendments?

3. Was a miscarriage of justice perpetrated upon the client by both defense counsel and the prosecution regarding the failure to produce the available and known exculpatory evidence; thereby violating the Appellant's Fifth, Sixth and Fourteenth Amendment rights to Due Process?

Appellant's Brief at 4.

When reviewing the propriety of an order granting or denying PCRA relief, this Court is limited to determining whether the evidence of record supports the determination of the PCRA court and whether the ruling is free of legal error. ***Commonwealth v. Boyd***, 923 A.2d 513, 515 (Pa. Super. 2007), *appeal denied*, 593 Pa. 754, 932 A.2d 74 (2007). Great deference is granted to the findings of the PCRA court, and these findings will not be disturbed unless they have no support in the certified record. ***Commonwealth v. Wilson***, 824 A.2d 331, 333 (Pa. Super. 2003), *appeal denied*, 576 Pa. 712, 839 A.2d 352 (2003).

Upon review of the issues raised, the certified record, the briefs of the parties, and the applicable legal authority, we conclude that the thorough PCRA court opinion entered on August 10, 2012 comprehensively and

correctly disposes of Appellant's appeal. Accordingly, we affirm the denial of Appellant's PCRA petition, and we do so based on the PCRA court's opinion. See PCRA Court Opinion, 8/10/12. The parties are directed to attach a copy of that opinion in the event of further proceedings in this matter.

Order affirmed.

Judgment Entered.

Prothonotary

Date: 5/15/2013

J-S76044-12

IN THE COURT OF COMMON PLEAS
OF PIKE COUNTY, PENNSYLVANIA
CRIMINAL

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PIKE COUNTY, PA
OFFICE OF
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CLERK OF COURTS

COMMONWEALTH OF PENNSYLVANIA	:	
Appellee,	:	
v.	:	No. 240-2009 - Criminal
ALAN R. WEIST,	:	
Appellant.	:	

OPINION SUBMITTED PURSUANT TO PENNSYLVANIA RULE OF APPELLATE PROCEDURE 1925

AND NOW, this 07 day of August, 2012, after careful review of the record, we continue to stand by our decision and respectfully request the Superior Court to uphold our Order of May 31, 2012 on appeal. This Court would also like to add, pursuant to Pennsylvania Rule of Appellate Procedure 1925, the following:

Facts and Procedural History

1. In June of 2009 the Appellant was charged with 4 Counts of Rape, 4 Counts of Statutory Sexual Assault, 8 Counts of Indecent Assault (M1), 8 Counts of Indecent Assault (M2) and 4 Counts of Corruption of Minors.

2. Pike County Public Defender's Office represented the Appellant at that time.

3. A full Preliminary Hearing on the charges was held on June 23, 2009 and 22 of the charges were bound over to Court.

4. The Criminal Information charging the Appellant with 20 separate counts was filed on July 27, 2009.

5. The Appellant waived his Arraignment on July 30, 2009.

6. A request for a Bill of Particulars was filed by Defense Counsel on August 6,

2009.

7. On August 15, 2009, an Order scheduling the matter for plea was set for October 29, 2009.

8. Notice of Wire Tapping or Electronic Surveillance was served upon the Appellant on October 13, 2009.

9. The plea scheduled for October 29 did not occur and the matter, set for trial in November, was continued until January 2010 based upon the representation the Appellant had hired new counsel. New counsel entered an appearance on November 12, 2009.

10. On December 18, 2009 the matter was once again continued to the March 2010 Trial Term.

11. On January 6, 2010 Defense Counsel filed an Omnibus Pre-Trial Motion seeking to Suppress the Appellant's Statements to Police, Suppress the Wire Intercept, Compel Discovery, Suppress Audio Recordings from the Pike County Jail and Compel Answers to the Bill of Particulars.

12. A Hearing on the Omnibus Motion was scheduled for June 4, 2010 and the trial continued to the July Trial Term.

13. On July 8, 2010 an Opinion was issued by the Court denying the Appellant's request to suppress evidence.

14. On August 9, 2010 Counsel for the Appellant filed a Motion Requesting the Appointment of a Psychiatric Expert for purposes of defense at trial.

15. On August 31, 2010 the Appellant's Motion for Appointment of a Forensic Psychiatrist was granted.

16. The matter was thereafter continued to the November 2010 Trial Term.

17. On January 7, 2011 Appellant entered a Plea of Guilty to Counts 1 and 2 of the Criminal Information, each charges of Rape of a Child based upon a plea agreement provided for a fixed sentence the minimum of 7 years on each Count to be served consecutive to one another and the dismissal of the remaining 18 Counts against the Appellant.

18. On February 1, 2011 this Court granted Defense Counsel's Motion for the Appointment of an Independent Assessment for an Independent Sexual Offender Assessment.

19. In March 2011 Appellant began to file *pro se* Motions including Motions to Dismiss the Plea, Motion for Improper Investigation, Motion for Suppression of Evidence, Motion to Dismiss Charges and Motion to Acquit Charges.

20. Thereafter, Counsel for the Appellant filed a Petition for Leave to Withdraw as Counsel, said Petition being filed on March 31, 2011.

21. Appellant was sentenced on March 31, 2011 in accord with the Plea Agreement. Further, the Appellant was determined to be a Lifetime Registrant under Megan's Law.

22. At the time of Sentencing the Appellant made a verbal Motion to Withdraw his Guilty Plea which Motion was denied. On April 8, Defense Counsel filed a Motion again seeking to Withdraw the Guilty Plea and to Modify the Sentence.

23. On April 12, 2011 the Defense Counsel's Motions were denied.

24. Thereafter, multiple Motions for Suppression, Challenging the Sentencing, Withdrawal of the Plea, Requests for Acquittal, etc. were all filed by the Appellant as *pro se* filings.

25. Further, the Appellant was simultaneously seeking to appeal to Superior Court but he failed to perfect his Appeal.

26. The Appellant did not retain new counsel or seek to have the Public Defender's Office represent him on any of these matters.

27. On December 14, 2011 the Appellant filed the Post Conviction Relief Act Petition (hereinafter "PCRA") which is the subject of these proceedings.

28. On December 20, 2011 Counsel was appointed for the Appellant for purposes of the PCRA proceedings.

29. On March 2, 2012, PCRA Counsel filed a detailed letter evaluating the Appellant's claims and indicating that those claims lacked merit.

30. Simultaneously, Counsel filed a Motion to Withdraw which Motion was Granted.

31. The Appellant filed an Objection to Dismissal of the PCRA Petition and a Hearing was held on the Appellant's Objection to Dismissal on May 8, 2012.

32. At the time of the Hearing, the Appellant presented no witnesses, testimony or exhibits in support of his Objection to Dismissal of the PCRA or in support of his underlying claim for ineffective assistance of counsel. Appellant claims that Counsel coerced the Plea in this case due to the fact that the Appellant could no longer afford to pay Counsel and that therefore Counsel would not take this matter to trial. However, the Appellant never filed for or requested representation from the Public Defender's Office, which had originally represented him at the Preliminary Hearing.

33. The Plea in this case was entered on January 7, 2010 on the morning scheduled for Jury Selection in this case. The Jurors were all present in the Courtroom

awaiting the selection process when the Appellant entered the plea.

34. Throughout these proceedings and up until the date of Sentencing, Defense Counsel appeared to operate effectively and correctly. Defense Counsel filed appropriate Motions and challenged the Commonwealth's evidence in these proceedings; Defense Counsel sought the appointment of a Forensic Psychiatrist to assist at trial and following entry of a Plea sought for the Appointment of an Independent Examiner to challenge any determinations by the Sexual Offenders Assessment Board. It was not until immediately before a Sentencing in this case that the Defense in this case began to fragment. At that time, the Appellant himself filed *pro se* Motions, complained about his representation, and began to act in an irregular, illogical and at times irrational manner.

35. At the time of entry of the plea, the Appellant appeared before the Court; the entire Guilty Plea Colloquy had been reviewed by Defense Counsel and initialed by the Appellant. Further, the terms of the plea agreement were reviewed by the Court with the Appellant. In addition, the Court performed its own Colloquy regarding the Appellant's decision to enter the Plea of Guilty. Based upon the entire Colloquy, this Court determined that the Appellant had entered the plea knowingly, voluntarily, and intelligently.

36. On the date the plea was taken, Defense Counsel, Appellant, the District Attorney and over 100 prospective Jurors were located in the Courtroom for purposes of Jury Selection and proceeding to Trial. Defense Counsel had no outstanding Petition to Withdraw as Counsel at that point and this matter was scheduled to proceed to Trial.

37. Appellant's Amended Petition for Post Conviction Collateral Relief was denied by Order on May 31, 2012. This Order is the subject of this appeal.

38. Appellant filed a Notice of Appeal on June 18, 2012. On June 19, 2012, this Court ordered Appellant to file a Concise Statement of Matters Complained of on Appeal. On July 2, 2012, Appellant filed a Concise Statement of Matters.

Matters Complained of on Appeal

Appellant's 1925(b) Statement of Matters Complained of on Appeal complains of five (5) matters, *inter alia*:

1) Appellant's counsel was ineffective for denying his client's wish to proceed to trial, in violation of his Constitutional rights under the first, sixth and fourteenth Amendments,
2) Appellant's plea was taken in an unknowing, unintelligent and involuntary manner and a competency hearing should have been held,
3) Defense counsel and the District Attorney withheld exculpatory evidence which would have created reasonable doubt, in violation of Appellant's due process rights under the Fifth, Sixth and Fourteenth Amendments,
4) Appellant filed a Petition to Amend his PCRA under Pa.R.Crim.P 905(a), which was denied, and
5) Appellant's right to trial was violated under the Sixth and Fourteenth Amendments.

Analysis

Appellant's Claim of Ineffective Assistance of Counsel for not proceeding to trial and that his plea was wrongfully obtained

We address Appellant's claim that Trial Counsel was ineffective for denying his wish to go to trial and that the plea was taken in an unknowing, unintelligent and

involuntary manner together, as these claims are interrelated. Appellant addressed his claim that he wanted to go to trial at his PCRA hearing but the issue of the validity of his plea was not addressed. Appellant challenges his competency to plead guilty for the first time in his 1925(b) Statement of Matters Complained of on Appeal. Following Appellant's PCRA Hearing, the Court found that Appellant failed to demonstrate that his constitutional rights were violated by having ineffective trial counsel and being unlawfully induced into pleading guilty.

To be eligible for post-conviction relief, 42 Pa.C.S.A. § 9543 (a)(2)(ii) requires Appellant establish ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place. The Court begins with the presumption that trial counsel was effective. *See Commonwealth v. O'Bidos*, 849 A.2d 243, 249 (Pa. Super. 2004). Generally, to overcome this presumption, Appellant must establish three factors:

> First, that the underlying claim has arguable merit. Second, that counsel had no reasonable basis for his action or inaction. In determining whether counsel's action was reasonable, we do not question whether there were other more logical courses of action which counsel could have pursued; rather, we must examine whether counsel's decisions had any reasonable basis. Finally, Appellant must establish that he has been prejudiced by counsel's ineffectiveness; in order to meet this burden, he must show that but for the act or omission in question, the outcome of the proceedings would have been different. A claim of ineffectiveness may be denied by a showing that the petitioner's evidence fails to meet any of these prongs.

Commonwealth v. Washington, 592 Pa. 592 Pa. 698, 712-13, 927 A.2d 586, 594 (2007).

Appellant contends that Trial Counsel was ineffective for failing to follow Appellant's wish for a trial. "Allegations of ineffectiveness in connection with the entry of a guilty plea will serve as a basis for relief only if the ineffectiveness caused appellant to enter an involuntary or unknowing plea." *Commonwealth v. Allen*, 557 Pa. 135, 144,

732 A.2d 582, 587 (1999). In determining whether Appellant's guilty plea was entered knowingly and intelligently, a reviewing court must review all of the circumstances surrounding the entry of the guilty plea. *Id.* The PCRA judge had the benefit of also handling the entirety of the underlying criminal case from arraignment to sentencing. Based on a review of the docket and file, there is no indication that the guilty plea was made involuntary or unknowing at the time it was entered into. Appellant executed a twenty-one page written colloquy and was questioned by the Court prior to its acceptance of the plea. In the written Guilty Plea Colloquy, Appellant acknowledged the underlying factual basis for both charges of Rape of a Child. The colloquy contains several paragraphs relating to counsel, in particular to ensure Appellant had enough time to discuss the charges and the plea with his attorney and that the decision to enter into the guilty plea agreement was the Appellant's own decision. Each paragraph bears Appellants initials and Appellant signed the last page under a paragraph that says he is willing to enter a plea of guilty.

Further, Appellant was questioned by the Court on the factual basis for the two charges of Rape of a Child. The Court described the factual basis, specifically that Appellant, as an adult, had sexual intercourse with the victim, while she was eleven and twelve years old by penetrating her genitals with his penis. The Court asked Appellant whether those facts were true and correct. Under oath, Appellant replied, "Yes." In addition, Appellant was advised orally by the Court on the record several times that once he entered the plea and it is accepted by the Court, it could not be withdrawn. The transcript from the guilty plea proceeding indicates that Appellant knew and understood that the plea he entered into could not be withdrawn. The Court asked Appellant, "This

plea agreement also has a provision in it that says, if I go along with the terms of the plea agreement you will not be allowed to change your mind and then attempt to withdraw this plea. This is a contract between yourself and the Commonwealth and as long as I go along with it you will be held to the terms of this agreement. Do you understand that?" Appellant replied, "Yes sir." The Court accepted Appellant's plea of guilty to two counts of Rape of a Child and the other 18 counts he was facing were dismissed.

Appellant claims he wanted to go to trial but Counsel refused to go to trial without an additional payment of $2,500 from him or his mother. The record does not support his contention. The record reflects that Appellant's Counsel filed Omnibus and other Pre-trial Motions as well as Motions for Reconsideration when the disposition of previous motions was unfavorable to Appellant. Hearings were scheduled on the motions, Counsel appeared and was prepared. Trial Counsel also submitted briefs when given leave of Court. The day the guilty plea was entered, Counsel was prepared for jury selection for trial on Appellant's twenty charges. Under the circumstances Appellant faced, the negotiated plea of guilty to two charges with a fixed sentence was favorable.

After the plea, Counsel continued to serve as Appellant's attorney and filed a Motion for Independent Assessment on Appellant's behalf. Counsel did not Petition to withdraw until March 31, 2011, more than two months after the entry of the guilty plea. Again, Appellant offered no evidence at his hearing in support of his claim and did not call his mother, his former counsel or himself as witnesses. There is no indication of anything in the record that leads this Court to believe Trial Counsel's performance was so ineffective as to cause Appellant to enter an involuntary or unknowing plea.

Attorney performance is to be assessed without the distortion of hindsight; rather,

we must reconstruct the circumstances under which counsel's decisions were made and evaluate counsel's conduct from his perspective at that time. *Commonwealth v. Birdsong*, 24 A.2d 319, citing *Strickland v. Washington*, 466 U.S. 668 (1984). Appellant faced twenty charges relating to serious allegations of sexual misconduct with a child. Counsel was able to negotiate a favorable plea under the circumstances and Appellant alone had the ability to decide whether or not to take it. Counsel appears to have provided diligent representation which ultimately culminated in a guilty plea this Court found to voluntarily, knowingly, and intelligently made. That Appellant might now regret his plea should not distort the performance his counsel provided in this case. We found that Appellant has not proven his claim of ineffective assistance of counsel. We continue to stand by that decision.

Appellant next claims that his guilty plea was taken in an unknowing, unintelligent and involuntary manner and a competency hearing should have been conducted. We have already discussed the guilty plea itself but turn now to Appellant's claim that a competency hearing should have been held to ascertain whether the he was competent to accept a plea. We first note that Appellant raises this issue for the first time in his 1925(b) Statement. Appellant did not file an appeal to the Superior Court after his sentencing and the time to do so has expired. Instead, Appellant filed a *pro se* PCRA. Neither he nor his appointed PCRA Counsel raised the issue of competency. The issue of competency was never before this Court and is not the subject of the underlying order giving rise to this appeal. We do note, however, that a criminal defendant is presumed to be competent to stand trial. *Commonwealth v. Flor*, 998 A.2d 606, 617 (2010). Had the issue been raised when the charges were pending, when the plea was entered or at any time when this Court

was in the position to rule on Appellant's competency, a hearing would have been held. At that time, the question would have been whether Appellant had sufficient ability at the pertinent time to consult with counsel with a reasonable degree of rational understanding, and to have a rational as well as a factual understanding of the proceedings. *Id.* The issue was never raised and thus Appellant was presumed competent to face charges filed by the Commonwealth.

Appellant's Claim that counsel wrongfully Witheld Exculpatory Evidence

Appellant claims that, "both defense counsel and the District Attorney withheld exculpatory evidence that would have created reasonable doubt in the jury's mind." Once again, Appellant is raising issues for the first time in his 1925(b) statement. Appellant has not previously, either in his PCRA Petition or at his hearing, raised any issue with respect to the conduct of the District Attorney. No Brady violation was ever even suggested and therefore, this Court did not rule on a Brady claim and cannot provide support in this opinion.

Appellant did take issue with respect to the conduct of his Trial Counsel by claiming that he failed to follow evidence favorable to Appellant. However, in his PCRA this claim was framed as an ineffective assistance of counsel claim, alleging that Trial Counsel failed to follow favorable evidence. As discussed above, a claim of ineffective assistance of counsel mandates an application of our Commonwealth's three-prong test. The Pierce test requires appellant to prove, with respect to counsel's performance, that: (1) the underlying claim has arguable merit; (2) no reasonable basis existed for counsel's actions or failure to act; and (3) petitioner suffered prejudice as a result of counsel's error such that there is a reasonable probability that the result of the proceeding would have

been different absent such error. *Commonwealth v. Philistin*, 2012 Pa. Lexis 1627 (2012) at page 7. This Court found that that Appellant's claim lacked arguable merit and therefore failed to satisfy the first prong of the ineffectiveness of counsel inquiry. As we believe that decision is well grounded in the long line of case law on ineffective assistance of counsel claims and the facts of this case, we continue to stand by our decision.

In his PCRA petition, Appellant claims he presented Counsel with documents and statements that could have exonerated him but Counsel refused to investigate any of this material. At his PCRA hearing, Appellant claimed that Counsel failed to pursue mitigating evidence. No evidence or testimony was presented to support his contentions. In fact, the record counters Appellant's assertions. Defense Counsel filed the appropriate pretrial motions to challenge the Commonwealth's evidence as well as to appoint experts to assist in the defense. Appellant simply presented no tangible evidence to support his claim. Appellant did not present the mitigating evidence that he claims Counsel failed to investigate. Instead, Appellant argued that his victim changed her story about the number of times the sexual contact took place. This argument seems to completely disregard the fact that Defendant plead guilty to only two charges of Rape of a Child and that he acknowledged under oath that he engaged in two sexual acts with the victim who was eleven and twelve years old at the time.

Appellant has not proven his assertion that Counsel failed to follow evidence has arguable merit and thus, his ineffective assistance of counsel claim fails to satisfy the first prong of the test. It is Appellant's responsibility to plead and prove his claim to the Court and he failed to do so.

Appellant's claims regarding a Petition to Amend on March 15, 2012

Appellant next claims he filed a Petition on March 15, 2012 to amend his PCRA under Pa.R.Crim.P. 905(A) and "effectively this was denied." A review of the docket and the actual file reveals that Appellant filed a *pro se* Petition to Amend the PCRA Petition on March 20, 2012, the same day as his PCRA Counsel was given leave to withdraw. On March 27, 2012, Appellant's Petition was denied and he was advised that this Court considered his Petition as an answer to PCRA Counsel's Motion to Withdraw. He was also advised that he may file a motion for a hearing on the matter within twenty days. Appellant then filed a Response to Notice of Intent to Dismiss PCRA. A hearing was then set for May 8, 2012. Appellant did not take issue with or even mention the denial of his petition at the hearing, nor did he file an interlocutory appeal of the Order denying his Petition to Amend. Appellant improperly attempts to challenge now what he failed to challenge when he had the chance.

Appellant's Claims Regarding Constitutional Violations

Appellant's 1925(b) Statement of Matters Complained of on Appeal states that he is eligible for relief under the act because of a violation of the first, fifth, sixth and fourteenth Amendment to the Constitution. The underlying Petition, which was denied, claimed that there were violations of the Constitution that so undermined the truth determining process that no reliable adjudication of guilt or innocence could have taken place.

A claim for constitutional violations must be considered under 42 Pa.C.S.A. § 9543 (a)(2)(i), which requires a Appellant to establish that the claimed constitutional violation undermined the truth determining process that no reliable adjudication of guilt or innocence could have taken place. In order to be eligible for relief, Petitioner must plead

and prove his claim by a preponderance of the evidence. 42 Pa. C.S. § 9543. Here, Appellant checked a box on the PCRA form marked DC-198 but nothing more. He did not plead a constitutional violation with any particularity and he did not prove it at his evidentiary hearing. In fact, Appellant did not take the opportunity to present witnesses or evidence at his PCRA hearing. Instead he relied on argument alone. Merely stating that rights were violated is simply not enough to carry the day in a PCRA claim. This Court determined that Appellant did not meet his statutory burden with respect to his constitutional claims and therefore, Appellant is not entitled to relief. We continue to stand by our decision.

Conclusion

For all the above reasons, and that this Court's findings were supported by the record and free from legal error, this Court's Order of May 31, 2012 should be upheld by Superior Court on appeal.

BY THE COURT:

Honorable Joseph F. Kameen, P.J.

cc: Alan Weist, *pro se*
Pike County District Attorney's Office
Joseph S. Toczydlowski, Esq.
Court Administration

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