

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,		IN THE SUPERIOR COURT OF
		PENNSYLVANIA
Appellee		
v.		
KEITH CALDWELL,		
Appellant		No. 1381 WDA 2013

Appeal from the PCRA Order Entered June 28, 2013  
In the Court of Common Pleas of Allegheny County  
Criminal Division at No(s): CP-02-CR-0006929-2007

BEFORE: GANTMAN, P.J., BENDER, P.J.E., and OTT, J.

MEMORANDUM BY BENDER, P.J.E.:

**FILED JULY 15, 2014**

Appellant, Keith Caldwell, appeals *pro se* from the trial court's June 28, 2013 order denying his petition for relief filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S. §§ 9541-9546. We affirm.

In March of 2007, Appellant was arrested and charged with murder following the shooting death of his grandfather, Nathaniel Caldwell. At Appellant's jury trial in March of 2008, the Commonwealth presented evidence establishing the following facts. In early March of 2007, Appellant was living with the victim when the two got into an argument and the victim informed Appellant that he had to move out. On March 9, 2007, the victim's daughter arrived at his apartment and discovered the deceased victim sitting in a chair with a gunshot wound to the side of his head. The autopsy revealed that "the wound was a close contact wound indicating that the

shooter had placed the gun directly against the victim's skull when firing the gun." PCRA Court Opinion, 1/6/14, at 3 (citation to the record omitted). The murder weapon was determined to be the victim's .357 Magnum revolver, which investigators discovered lying outside the basement door in the rear of the building in which the victim and Appellant lived. Appellant admitted to investigators that he knew the victim kept that gun in their shared residence.

The Commonwealth also proffered evidence that shortly before the murder, Appellant placed calls to 911 and police headquarters inquiring about whether the victim could evict him. In addition, the Commonwealth called to the stand the victim's next-door neighbor, Ernie Daniels. Daniels testified that around the time of the murder, he "heard a sound ... like someone kicking in or banging in his back door." *Id.* at 3 (citation to the record omitted). "When Daniels heard the noise he looked out his back window and saw [Appellant] running from the back of the apartment next door towards the front." *Id.* at 4. The Commonwealth also presented the testimony of an expert in DNA analysis who opined that blood discovered on a boot Appellant was wearing on the day of the murder matched the blood of the victim.

At the conclusion of Appellant's trial, the jury convicted him of first degree murder. Appellant was sentenced on April 24, 2008, to life imprisonment without the possibility of parole. He filed a timely direct appeal, solely challenging the sufficiency of the evidence to sustain his

conviction. After this Court affirmed Appellant's judgment of sentence on November 14, 2011, our Supreme Court denied his subsequent petition for allowance of appeal. ***Commonwealth v. Caldwell***, 38 A.3d 919 (Pa. Super. 2011) (unpublished memorandum), *appeal denied*, 44 A.3d 1160 (Pa. 2012).

On December 5, 2012, Appellant filed a *pro se* document characterized as a "motion to set aside and/or vacate judgment." The court construed that document as a timely PCRA petition and appointed counsel. However, rather than filing an amended petition on Appellant's behalf, counsel filed a petition to withdraw and "no merit" letter in accordance with ***Commonwealth v. Turner***, 544 A.2d 927 (Pa. 1998), and ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988). Appellant filed a *pro se* response to counsel's petition to withdraw, essentially reasserting the claims he raised in his PCRA petition. On May 20, 2013, the court issued two orders, one granting counsel's petition to withdraw, and one providing Pa.R.Crim.P. 907 notice of its intent to dismiss Appellant's petition. Appellant filed another *pro se* response to the court's Rule 907 notice, again reiterating the claims presented in his *pro se* PCRA petition. On June 28, 2013, the PCRA court issued an order dismissing Appellant's petition. He filed a timely notice of appeal.

Before setting forth the numerous issues that Appellant presents on appeal, we note that his brief does not contain a "Statement of Questions Involved" section, in violation of Pa.R.A.P. 2116(a) (directing that the

appellant provide a statement of the questions involved, which “must state concisely the issues to be resolved, expressed in terms and circumstances of the case but without unnecessary detail[.]”). Based on this omission, we could decline to consider Appellant’s issues. **Id.** (“No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby.”). However, because Appellant sets forth each of his claims in headings throughout his argument section, we will overlook this briefing error. Appellant presents the following 18 issues for our review, which we reproduce verbatim:

- 1 Can a Affidavit of Proable Cause state that there is blood on the accused boot and that there was a positive match to the reference profile of the victim, if there is no positive match to the reference profile of the victim?
- 2 Can a Affidavit of Proable Cause state that the accused was excluded as a contributor of said sample, if thee accused is a possible contributor and can’t be excluded?
- 3 Can a expert witness offer false and/or perjured testimony and still be allowed to testify without the jury being instructed to ignore the false and/or perjured testimony?
- 4 Can the prosecution say the defendant had blood from the victim on his boot, even after it was explained that there was no positive match?
- 5 Can the prosecution say blood does’nt splatter in instant death cases and falsely claim a expert witness said this, to discredit the defense that if the defendant fired a gun at contact range why was there no blood on his clothing?
- 6 Can the prosecution twice say the victim was murdered in his sleep with no evidence to support this statement?
- 7 Should a judge remain impartial as to if a certain non-expert witness testimony is true or false, and/or what said testimony tends to show to avoid unfairly biasing the defense?

8 Should a jury be given knowledge concerning blood splatter evidence, if they ask for it to determine a verdict in a homicide case, where the prosecution falsified information concerning said evidence?

9 Is the petitioner entitled to a full transcript in order to pursue his appeal?

10 Can a gun be presented before a jury as evidence and shown to them, if the defendant was never charged or ever accused of being in possession of said gun?

11 Can the petitioner be found guilty of firing a gun if he was never charged or accused of being in possession of said gun?

12 Was the petitioner's trial counsel ineffective for telling the jury to put aside facts that helped establish his innocence, only to argue against said facts and original defense while using falsified facts that hurt defense?

13 Was the petitioner's counsel(s) ineffective for failing to ask a Frye Hearing?

14 Was the petitioner's trial counsel ineffective, for having no strategy for resting without presenting a defense?

15 Was the petitioner's trial counsel ineffective for failing to raise and/or question Ernie Daniels, criminal history, crack cocaine usage, being intoxicated the day of the incident, of why he wanted the cops off his back, and of daniels receiving monetary compensation?

16 Was the petitioner's trial counsel ineffective for failing to object to court error(s) and/or prosecutorial misconduct(s)?

17 Was the petitioner's counsel(s) ineffective for failing to raise and/or preserve the petitioner's meritorious issue(s) for appeal?

18 Should a Frye Hearing have bin conducted?

Appellant's Brief at 21-38.

Initially, we note that our standard of review regarding an order denying post-conviction relief under the PCRA is whether the determination of the court is supported by the evidence of record and is free of legal error.

***Commonwealth v. Ragan***, 923 A.2d 1169, 1170 (Pa. 2007). This Court grants great deference to the findings of the PCRA court, and we will not disturb those findings merely because the record could support a contrary holding. ***Commonwealth v. Touw***, 781 A.2d 1250, 1252 (Pa. Super. 2001). The PCRA court's findings will not be disturbed unless there is no support for the findings in the certified record. ***Commonwealth v. Carr***, 768 A.2d 1164, 1166 (Pa. Super. 2001).

We also emphasize that to be eligible for post-conviction relief, a petitioner must plead and prove that his conviction or sentence resulted from one or more of the following:

- (i) A violation of the Constitution of this Commonwealth or the Constitution or laws of the United States 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.
- (ii) 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.
- (iii) A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the petitioner to plead guilty and the petitioner is innocent.
- (iv) The improper obstruction by government officials of the petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court.
- (v) Deleted.
- (vi) The unavailability at the time of trial of exculpatory evidence that has subsequently become available and

would have changed the outcome of the trial if it had been introduced.

(vii) The imposition of a sentence greater than the lawful maximum.

(viii) A proceeding in a tribunal without jurisdiction.

42 Pa.C.S. § 9543(a)(2). In addition, the petitioner must demonstrate “[t]hat the allegation of error has not been previously litigated or waived.”

42 Pa.C.S. § 9543(a)(3). “[A]n issue is waived if the petitioner could have raised it but failed to do so before trial, at trial, during unitary review, on appeal or in a prior state post[-]conviction proceeding.” 42 Pa.C.S. § 9544(b).

In this case, it is clear that many of Appellant’s issues do not satisfy the dictates of section 9543(a)(2) and/or (3). Namely, Appellant’s first eight issues, as well as his issues 10, 11, and 18, do not appear on their face to be cognizable PCRA claims, and Appellant does not explain within what provision of section 9543(a)(2) they fall. Notably, Appellant does not allege in any of these issues that his trial counsel was ineffective for failing to challenge these purported errors. Additionally, Appellant does not explain why he could not have raised these claims on direct appeal, or argue that his appellate counsel was ineffective for failing to do so. Therefore, these claims are not cognizable under the PCRA and, alternatively, they are waived pursuant to section 9543(a)(3).

We acknowledge that in Appellant’s issues 16 and 17, he presents general claims of trial and appellate counsels’ ineffectiveness for “failing to

object to court error(s) and or prosecutorial misconduct(s),” and for “failing to raise and/or preserve [Appellant’s] meritorious issue(s) for appeal,” respectively. Appellant’s Brief at 36, 37. However, Appellant presents only two sentences in support of each of these claims, and does not cite any legal authority. Because Appellant’s issues 16 and 17 are too underdeveloped to permit us to meaningfully review them, in and of themselves, we conclude that they are also waived. **See Commonwealth v. Hardy**, 918 A.2d 766, 771 (Pa. Super. 2007) (citations omitted) (stating “when defects in a brief impede our ability to conduct meaningful appellate review, we may dismiss the appeal entirely or find certain issues to be waived[]”). Additionally, Appellant makes no attempt to relate these counsel ineffectiveness claims back to the issues discussed *supra*, i.e. issues 1-8, 10, 11, or 18. We decline to act as Appellant’s counsel and make these arguments for him. **See Commonwealth v. Sanford**, 445 A.2d 149, 150 (Pa. Super. 1982) (stating “[w]e decline to become [A]ppellant’s counsel. When issues are not properly raised and developed in briefs, when the briefs are wholly inadequate to present specific issues for our review, a court will not consider the merits thereof.”).

For all of the foregoing reasons, we will only address Appellant’s issues 9, 12, 13, 14, and 15. In Appellant’s ninth issue, he alleges that he was unable to “pursue relief on appeal” because certain portions of his trial were not transcribed - namely, several sidebar conversations between counsel and the court, and a portion of the Commonwealth’s closing argument.



Appellant's Brief at 29. Appellant speculates that the failure of the stenographer to transcribe parts of the trial was the result of fraud by the court, the Commonwealth, and/or his defense counsel. Appellant maintains that not only was his appeal hampered by these omissions from the record, but he has also been unable to "fully pursue all of his issues including those not yet raised...." ***Id.***

Even if we liberally construe this issue as a cognizable PCRA claim under section 9543(a)(2)(ii) or (a)(2)(iv), it is nevertheless meritless. It is apparent from the PCRA court's opinion, the trial court's Pa.R.A.P. 1925(a) opinion, and the certified record that there were certain portions of Appellant's trial that were not transcribed. However, it is also clear that Appellant first realized that transcripts were missing during the pendency of his direct appeal. Indeed, appellate counsel raised an issue concerning the missing transcripts in Appellant's Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal. In its Rule 1925(a) opinion, the trial court addressed this claim at length, explaining that appellate counsel had filed objections to the missing transcripts and, in response, a hearing was conducted to address and correct the omissions in the record pursuant to Pa.R.A.P. 1922 (setting forth proper procedures that must be followed in order to correct alleged discrepancies in the record). ***See*** Trial Court Opinion, 1/18/11, at 12-13. Ultimately, the trial court corrected what portions of the record it could, and concluded that the innocuous failure to transcribe certain limited portions of Appellant's trial had not deprived

Appellant of due process or his right to a meaningful appeal. ***Id.*** at 20. Accordingly, the court opined that Appellant was not entitled to relief on direct appeal.

While Appellant's direct appeal counsel raised this issue in Appellant's Rule 1925(b) statement, counsel subsequently abandoned it in Appellant's brief to this Court. ***See Commonwealth v. Caldwell***, No. 962 WDA 2008, unpublished memorandum at 7 (filed November 14, 2011) (stating the only issue Appellant raised on direct appeal was a challenge to the sufficiency of the evidence to sustain his conviction). Thus, for Appellant to demonstrate that he did not waive this claim for PCRA review under section 9543(b), he must plead and prove that his appellate counsel acted ineffectively by foregoing this issue on direct appeal. To demonstrate counsel's ineffectiveness, a petitioner must demonstrate that "(1) the underlying legal issue has arguable merit; (2) counsel's actions lacked an objective reasonable basis; and (3) actual prejudice befell the petitioner from counsel's act or omission." ***Commonwealth v. Johnson***, 966 A.2d 523, 533 (Pa. 2009) (citations omitted).

In Appellant's brief, he presents the following argument, in its entirety, to support his challenge to the missing transcripts:

The petitioner under law is entitled to an accurate picture of what happened at trial in order to pursue relief on appeal. At his sentencing the petitioner raised issues that he recalled occurring [*sic*] during the [Commonwealth's] closing statement yet he can not [*sic*] raise said issues or others that might exist in the missing parts of the transcript

because they were not recorded because the stenographer failed to record them and alert anyone that the machine was malfunctioning during the prosecution's closing statement, other than the prosecution itself. The petitioner also suspects that corruption may be present and is not willing to remove his prior counsel ... or [the trial court] from that equation, due in part that they both agreed to fill in the blanks more than a year and a half after trial using the [District Attorney's] laptop and without the petitioner being present. Due in part to said reasons the petitioner would like to see what was said during the missing parts including the sidebars to check for errors and/or corruption. The petitioner also argues isn't [*sic*] this of importance in a [first] degree homicide trial, so why would the stenographer not transcribe the sidebars unless they were instructed not to do so? The petitioner can not [*sic*] fully pursue all of his issues including those not yet raised due to his lack of proof and/or knowledge of what was said due to the lack of a full transcript.

#### Conclusion

The petitioner can not [*sic*] present and/or prove his meritorious issues due to a [*sic*] incomplete trial transcript, this includes but is not limited to issues he raised during his sentencing.

Appellant's Brief at 29 (emphasis and unnecessary capitalization omitted).

Appellant's argument fails to satisfy the above-stated prongs of the ineffective assistance of counsel test. Namely, Appellant does not even acknowledge that his appellate counsel objected to the missing transcripts and raised this issue in Appellant's Rule 1925(b) statement. He also does not present any argument disputing the reasonableness of counsel's subsequent decision to forego this claim on direct appeal after receiving the trial court's detailed opinion, wherein the court concluded that appropriate efforts were made to correct the omissions in the record, and that Appellant

suffered no prejudice as a result thereof. Because Appellant does not contend that appellate counsel's conduct was unreasonable, we conclude that he has not proven that counsel acted ineffectively. We also conclude that Appellant's bald assertion of "fraud" by the Commonwealth, the court, and/or trial counsel does not convince us that the missing transcripts constituted "improper obstruction by government officials of [his] right of appeal" under section 9543(a)(2)(iv).

Next, we address Appellant's twelfth issue, in which he alleges that his trial counsel acted ineffectively "for telling the jury to put aside facts that helped establish [Appellant's] innocence, only to argue against said facts and original defense while using falsified facts that hurt [Appellant's] defense[.]" Appellant's Brief at 32. In his confusing argument, Appellant seemingly takes issue with statements by his trial counsel during closing arguments, including (1) counsel's acknowledging that the victim's blood was found on Appellant's boot, (2) counsel's statement that the blood on Appellant's boot could not have come from Appellant because there was no indication that Appellant was bleeding on the day of the murder, and (3) counsel's comment that there were "a few drops" of blood when the evidence indicated it was only a "speck" of blood. Appellant's Brief at 32.

Appellant's two-paragraph argument (which contains no citations to any legal authority) does not convince us that his trial counsel's statements were improper. Appellant does not specify how counsel's closing argument contradicted the evidence presented at trial or hampered his defense. The

PCRA court, however, did provide a detailed discussion of defense counsel's trial strategy, and how counsel's closing argument was consistent with Appellant's defense. The court explained:

A review of the entire transcript indicates that trial counsel pursued an appropriate defense consistent with [Appellant's] assertion of innocence. Counsel sought to establish that the Commonwealth failed to establish that it was [Appellant] who shot the victim. Trial counsel vigorously argued that the Commonwealth's evidence of motive was inconsistent and contradicted by the evidence of [Appellant's] phone calls to the police which, he argued, demonstrated that [Appellant] was not out of control, enraged or angry [before the victim was murdered]. Counsel argued that the phone calls demonstrated that [Appellant] was calm and polite when he called the police [before the murder] to inquire about being thrown out of his grandfather's home and that if he was concerned about not being able to live with his grandfather, it would be inconsistent to then murdering his grandfather. Trial counsel argued that the DNA evidence was inconclusive due to the anomalies identified by [the Commonwealth's DNA expert] during his testimony and based on the fact that [the expert] admitted that no determination could be made as to when the blood was deposited on [Appellant's] boot. Trial counsel argued the lack of blood on [Appellant's] clothing in light of the Commonwealth's evidence that the victim died from a tight contact gunshot wound. Trial counsel argued that [Appellant] was cooperative with the police in offering his clothing and DNA samples for analysis. Trial counsel argued the investigating detective's [*sic*] did not tape record [Appellant's] alleged inconsistent statements when they had the opportunity to do so. Trial counsel argued that [Appellant] steadfastly maintained his innocence throughout repeated questioning by the police. Trial counsel argued that the police failed to contact certain witnesses during their investigation. Trial counsel also argued extensively that an examination of the testimony of Ernie Daniels demonstrated that it was inconsistent, incredible and should be rejected by the jury. Based on a review of the entire record, there is no evidence that trial counsel was ineffective in failing to pursue an appropriate defense strategy or in failing to properly present and argue that defense to the jury.

PCRA Court Opinion, 1/6/14, at 18-19.

Our review confirms that the record supports the PCRA court's description of defense counsel's trial strategy and the statements counsel made during closing arguments. Appellant's undeveloped claims that counsel ineffectively made comments that were "false" or otherwise improper do not convince us that the PCRA court's determination to the contrary should be disturbed on appeal.

In Appellant's thirteenth issue, he maintains that trial counsel was ineffective for not requesting a hearing to determine the admissibility of the Commonwealth's DNA evidence pursuant to ***Frye v. U.S.***, 293 F. 1013 (D.C.Cir. 1923) (holding that novel scientific evidence is admissible if the methodology that underlies the evidence has general acceptance in the relevant scientific community). As our Supreme Court recently explained, "[o]nce determined to be novel evidence, under ***Frye***, the proponent must show that the methodology is generally accepted by scientists in the relevant field, but need not prove the conclusions are generally accepted." ***Commonwealth v. Walker***, 2014 WL 2208139, \*20 (Pa. 2014) (citing ***Grady v. Frito-Lay, Inc.***, 839 A.2d 1038, 1045 (Pa. 2003)).

Here, Appellant avers "that the [blood] sample in question," which was taken from the surface of Appellant's boot, "was considered no match [to the victim's blood] in the scientific community and[,] therefore, "the jury should have never [heard] information concerning that DNA...." Appellant's Brief at 33 (unnecessary capitalization omitted). Appellant maintains that the

Commonwealth “misrepresented” to the jury that the blood on his boot “matched” the victim’s blood. Accordingly, he claims that trial counsel was ineffective for not requesting a **Frye** hearing concerning this DNA evidence because, “had a **Frye** hearing [been] conducted, not only would the DNA evidence not have [been] misrepresented, [but] the hearing would have demolished the Commonwealth’s case.” **Id.** at 33 (emphasis omitted).

Once again, Appellant’s confusing argument is unconvincing. Our Supreme Court has expressly stated that, “the scientific processes carried out in a laboratory to compare DNA samples are now routine and fully accepted in the scientific community.” **Commonwealth v. Crews**, 640 A.2d 395, 400-401 (Pa. 1994). The **Crews** Court went on to explain that, “[p]hysical examination of DNA samples in order to identify matches at various alleles is a well-recognized and widely accepted scientific phenomenon, within the meaning of **Frye**.” **Id.** at 402. In light of this case law, Appellant has failed to prove that the court would have conducted a **Frye** hearing had counsel requested one, or that the at-issue DNA evidence would have been found inadmissible under the **Frye** standard of “general acceptance of reliability in the relevant scientific community....” **Id.** at 400 n.2. Therefore, his claim of ineffectiveness lacks arguable merit.

Appellant next contends that his trial counsel was ineffective “for having no strategy for resting without presenting a defense[.]” Appellant’s Brief at 34. Appellant apparently takes issue with counsel’s failure to call any defense witnesses on Appellant’s behalf. In particular, he argues that

counsel should have called witnesses to testify regarding his “character of avoiding all confrontation at all costs[,]” or witnesses who could have “discredited” a Commonwealth witness, Ernie Daniels. **Id.** Appellant also claims that he “wanted to testify but choose [*sic*] not to after [counsel] advised him ... ‘it would only waste time.’” **Id.**

Initially, Appellant’s claim that trial counsel should have called character or other witnesses on Appellant’s behalf fails because Appellant has not met the following well-established standard of proving an ineffectiveness claim on this basis:

In order to prevail on a claim of ineffectiveness for failing to call a witness, a defendant must prove, in addition to meeting the [main ineffectiveness prongs], that: (1) the witness existed; (2) the witness was available to testify for the defense; (3) counsel knew or should have known of the existence of the witness; (4) the witness was willing to testify for the defense; and (5) the absence of the witness's testimony was so prejudicial as to have denied him a fair trial.

“Further, ineffectiveness for failing to call a witness will not be found where a defendant fails to provide affidavits from the alleged witnesses indicating availability and willingness to cooperate with the defense.”

**Commonwealth v. McLaurin**, 45 A.3d 1131, 1137 (Pa. Super. 2012) (citations omitted).

Here, Appellant does not even name any witnesses that would have been willing and able to testify on his behalf, let alone provide affidavits from those witnesses, or prove that counsel knew or should have known of



their existence. Accordingly, this portion of his ineffectiveness argument fails.

In regard to Appellant's claim that counsel improperly convinced him not to take the stand at trial, the PCRA court emphasized "that an appropriate colloquy was conducted regarding [Appellant's] decision not to testify in his own defense...." PCRA Court Opinion at 19. The record reveals that during that colloquy, Appellant stated he understood his right to testify, and he had consulted with his attorney regarding his waiving of that right. N.T. Trial, 3/10/08-3/12/08, at 254-55. Appellant also declared that no one forced him to waive his right to testify, and that he was satisfied with the representation of his counsel. *Id.* at 256. Appellant did not at any point claim, or contest, that counsel advised him it would be a "waste of time" to testify. Accordingly, Appellant's unverified claim that counsel convinced him not to take the stand on this basis is not sufficient to prove that Appellant's waiver of his right to testify was not knowing, voluntary, and intelligent. ***See Commonwealth v. Lawson***, 762 A.2d 753, 755 (Pa. Super. 2000) ("It is well settled that a defendant who made a knowing, voluntary, intelligent waiver of testimony may not later claim ineffective assistance of counsel for failure to testify.").

In Appellant's fifteenth issue, he maintains that his trial counsel was ineffective for failing to impeach Ernie Daniels with his criminal history, drug use, intoxication on the day of the murder, and compensation he received

for testifying against Appellant. Specifically, Appellant's presents the following argument, in its entirety, in support of this claim:

[Appellant's] trial counsel said that the case was a two part case with Ernie Daniels being one part so with-holding [sic] information that would discredit Daniels would be ineffective. Asking Daniels if he had a criminal history which he does, would [sic] have discredited and damaged his character. Daniels also had (has) a drug habit in which he uses crack cocaine, which seems to influence people's decisions, so did he come forward 5 days later to get money for his addiction (witnesses claim to have seen him collect money). Or maybe he came forward because in his words "I figured that would get them off me", but who is he talking about because no body [sic] ever said they seen [sic] him [un]til he showed up 5 days later suggesting [Appellant] kicked a door in at the 7013 residence, something Daniels had [been] accused of doing twice before. There also was evidence Daniels was intoxicated [sic], and it only gets stronger when you add that he admitted to donating blood (to get the money I would suggest since Daniels admitted to having no job) and then immediately buying alcohol to detectives. The combination of donating blood and drinking alcohol beforehand would have discredited a witness. Mr. Daniels also switched the time he claimed he saw the petitioner from 1¼ [hours] before the police arrived to 45 [minutes] removing almost a full hour from his statement which would conveniently [sic] fit the prosecution's timeline (suggesting coaching). Yet again because the ineffectiveness of [defense counsel], information damaging the credibility of Mr. Daniels went with-held [sic] from the jury.

#### Conclusion

There was no reason for [defense counsel] to withhold the information asked in the question because it could not have hurt the defense and once combined with what was already known it would have destroyed Daniels's credibility and the prosecution's [sic] case.

Appellant's Brief at 35.

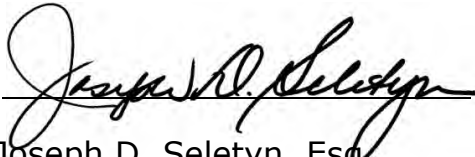
In rejecting Appellant's claim of ineffectiveness, the PCRA court emphasized that Appellant "offers nothing but vague and general allegations about Mr. Daniels and there is no evidence that trial counsel was ineffective in failing to pursue appropriate attacks on the credibility of Mr. Daniels." PCRA Court Opinion at 20. The court also noted that "trial counsel vigorously attacked the credibility of Ernie Daniels based on appropriate evidence raised during the course of trial." *Id.* Our review establishes that the record supports the court's assessment of counsel's conduct. Consequently, Appellant's unsubstantiated claims that counsel could have presented other evidence to attack Daniels' credibility does not prove that counsel was ineffective, or warrant our disrupting the PCRA court's decision.

In sum, many of the issues Appellant raises on appeal are either non-cognizable PCRA claims, are waived under section 9543(b), or are waived due to his failure to develop a meaningful argument in support thereof. Regarding Appellant's remaining ineffectiveness claims that are cognizable under the PCRA, and which we liberally construe as being sufficiently (although not thoroughly) argued herein, we conclude that those issues are meritless. Accordingly, the PCRA court did not err in dismissing Appellant's petition without a hearing.

Order affirmed.

J-S34018-14

Judgment Entered.

A handwritten signature in black ink, reading "Joseph D. Seletyn". The signature is written in a cursive style and is positioned above a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 7/15/2014