

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
JOHN STEVEN MARRERO,	:	
	:	
Appellant	:	No. 2267 MDA 2013

Appeal from the Judgment of Sentence October 2, 2013,
Court of Common Pleas, Berks County,
Criminal Division at No. CP-06-CR-0002386-2013

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
JOHN STEVEN MARRERO,	:	
	:	
Appellant	:	No. 2268 MDA 2013

Appeal from the Judgment of Sentence October 2, 2013,
Court of Common Pleas, Berks County,
Criminal Division at No. CP-06-CR-0002765-2013

BEFORE: DONOHUE, WECHT and STRASSBURGER*, JJ.

MEMORANDUM BY DONOHUE, J.: **FILED JUNE 06, 2014**

John Steven Marrero ("Marrero") appeals from the judgment of sentence entered on October 2, 2013 by the Court of Common Pleas, Berks County, following his convictions for two counts of burglary¹ and one count

¹ 18 Pa.C.S.A. § 3502(a)(1).

*Retired Senior Judge assigned to the Superior Court.

of possession of drug paraphernalia.² Marrero's appellate counsel ("Counsel") seeks to withdraw from representation pursuant to **Anders v. California**, 386 U.S. 738, 87 S. Ct. 1396 (1967) and **Commonwealth v. Santiago**, 978 A.2d 349, 361 (Pa. 2009). Upon review, we remand for Counsel to file a proper petition to withdraw, in compliance with **Anders**.

There are particular mandates that counsel seeking to withdraw pursuant to **Anders** must follow. These mandates and the significant protection they provide to an **Anders** appellant arise because a criminal defendant has a constitutional right to a direct appeal and to counsel on that appeal. **Commonwealth v. Woods**, 939 A.2d 896, 898 (Pa. Super. 2007).

We have summarized these requirements as follows:

Direct appeal counsel seeking to withdraw under **Anders** must file a petition averring that, after a conscientious examination of the record, counsel finds the appeal to be wholly frivolous. Counsel must also file an **Anders** brief setting forth issues that might arguably support the appeal along with any other issues necessary for the effective appellate presentation thereof.

Anders counsel must also provide a copy of the **Anders** petition and brief to the appellant, advising the appellant of the right to retain new counsel, proceed *pro se* or raise any additional points worthy of this Court's attention.

If counsel does not fulfill the aforesaid technical requirements of **Anders**, this Court will deny the petition to withdraw and remand the case with appropriate instructions (e.g., directing counsel

² 35 P.S. § 780-113(a)(32).

either to comply with **Anders** or file an advocate's brief on Appellant's behalf).

Id. (citations omitted).

Presently, Counsel has filed an **Anders** brief seeking to withdraw from this case. However, we conclude that Counsel has failed to satisfy the requirements of **Anders**. Counsel has not filed a petition with this Court seeking permission to withdraw. As Counsel has not complied with the requirements of **Anders**, we remand for the filing of a petition seeking leave to withdraw or an advocate's brief within 20 days of the date of the filing of this memorandum. Counsel must also provide Marrero with a copy of these documents.

Case remanded. Jurisdiction retained.