

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
v.	:	
	:	
WADE LEE,	:	No. 3313 EDA 2018
	:	
Appellant	:	

Appeal from the PCRA Order Entered October 31, 2018
in the Court of Common Pleas of Delaware County
Criminal Division at No. CP-23-CR-0000648-2012

BEFORE: STABILE, J., MURRAY, J., AND FORD ELLIOTT, P.J.E.

MEMORANDUM BY FORD ELLIOTT, P.J.E.: **FILED OCTOBER 1, 2019**

Wade Lee appeals *pro se* from the October 31, 2018 order entered in the Court of Common Pleas of Delaware County denying his *pro se* petition filed pursuant to the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S.A. §§ 9541-9546.¹ We dismiss this appeal.

The procedural history of this case, as gleaned from the certified record, is summarized as follows: Appellant was sentenced to 10 to 20 years’

¹ We note that in its order, the PCRA court stated that the PCRA petition was dismissed, *inter alia*, “because the [p]etition was not timely filed.” (PCRA court order, 10/31/18.) The record demonstrates, however, that appellant’s PCRA petition was timely filed. (**See** appellant’s PCRA petition, 8/21/14; **see also** 42 Pa.C.S.A. § 9545(b)(1).)

incarceration² after a jury convicted him of aggravated assault – causing serious bodily injury, aggravated assault – attempted serious bodily injury, simple assault, and recklessly endangering another person.³ This court affirmed appellant’s judgment of sentence on November 8, 2013, and our supreme court denied appellant’s petition for allowance of appeal. **See Commonwealth v. Lee**, No. 2822 EDA 2012, unpublished memorandum (Pa.Super. filed November 8, 2013), **appeal denied**, 95 A.3d 276 (Pa. 2014).

Appellant filed **pro se** his first PCRA petition, and PCRA counsel filed an amended PCRA petition. The PCRA court provided notice, pursuant to Pa.R.Crim.P. 907, of its intent to dismiss the PCRA petition without an evidentiary hearing. Appellant filed **pro se** a response seeking to remove PCRA counsel and proceed **pro se**. The PCRA court denied appellant’s request and denied his PCRA petition. Appellant filed **pro se** a notice of appeal.

This court vacated the order dismissing appellant’s PCRA petition and remanded the case in order that the PCRA court could conduct a **Grazier**⁴ hearing. **See Commonwealth v. Lee**, No. 1591 EDA 2016, unpublished memorandum (Pa.Super. filed April 11, 2018). After conducting a **Grazier**

² Pursuant to 42 Pa.C.S.A. § 9714(a)(1), appellant was sentenced to a mandatory minimum term of 10 years’ incarceration for his conviction of the current crime of violence, in this case assault, because in 1989, appellant was convicted of a previous crime of violence, arson.

³ 18 Pa.C.S.A. §§ 2702(a)(1), 2701(a)(1) and 2705, respectively.

⁴ **Commonwealth v. Grazier**, 713 A.2d 81 (Pa. 1998).

hearing, the PCRA court determined appellant knowingly, intelligently, and voluntarily waived his right to counsel and wished to proceed **pro se**. Appellant subsequently filed **pro se** an amended PCRA petition.

The PCRA court provided appellant notice, pursuant to Rule 907, of its intent to dismiss the amended PCRA petition to which appellant filed a response. The PCRA court dismissed appellant's amended PCRA petition. Appellant filed a timely notice of appeal. The PCRA court did not order appellant to file a concise statement of errors complained of on appeal, pursuant to Pa.R.A.P. 1925(b). However, the PCRA court filed a Rule 1925(a) opinion.

Appellant raises the following issues for our review:

- (1). Whether the honorable trial court committed constitutional error of law, and abuse of discretion, when it ordered [appellant] to present evidence that he, [sic] did not kidnap [sic] and torture, and rape, [sic] the [C]ommonwealths [sic] sole eye witness [sic] (in 1999) when she (the witness) was just fifteen [sic] years old, as the [C]ommonwealth stated directly to the jury, after said witness proclaimed appellants [sic] innocence under oath to the jury, from the witness stand[?]
- (2). Whether the honorable [PCRA] court committed constitutional error of law, and abuse of discretion by dismissing appellant(s) [sic] timely filed [PCRA] petition, based upon, its arbitrarily imposed [Pennsylvania] [C]onstitutional Amendment called the "Embellishment [C]ause." By abandoning the current state of law, and in denial of appellant(s) [sic] protection(s) guaranteed by

the [S]ixth and [F]ourteenth Amendments to the United States [C]onstitution, and Article 1. [sic] Section 9, of the Pennsylvania [C]onstitution[?] [sic]

- (3). Whether the [C]ommonwealth of Pennsylvania violated appellant(s) [sic] [S]ixth and [F]ourteenth Amendments to the [U]nited [S]tates [C]onstitution [sic], and Article 1, § 9, of the Pennsylvania [C]onstitution [sic], when she brought before the tryer [sic] of fact, (trial jury) a charge of rape, kidnap, and torture of a 15 fifteenth [sic] year old child, when this appellant was not charged with those crimes[?]
- (4). Whether “the Embellishment” Amendment of the [C]ommonwealth(s) [sic] Delaware [C]ounty District Attorney’s [O]ffice, [sic] calls into question the integrity of the honorable [PCRA] court[?]

Appellant’s brief at 2-3 (extraneous capitalization, suggested answers, and parentheticals omitted).⁵

Appellant’s brief fails to comply with Pa.R.A.P. 2111, which sets forth the mandatory contents of an appellant’s brief. **See** Pa.R.A.P. 2111(a). Appellant fails to include a statement of jurisdiction. Although appellant includes a “statement of scope and standard of review,” the “statement” raises claims of trial court error and prosecutorial misconduct. (**See** appellant’s brief at 4-6.) Appellant’s brief includes a “counter-statement of question(s) involved” and a “statement of question [sic] involved” wherein appellant raises

⁵ We note that appellant filed several handwritten copies of his brief with this court. Each handwritten copy of the brief differs slightly in its wording but the context of the issues in each handwritten copy remains the same. The issues presented herein are one variant of the issues raised by appellant.

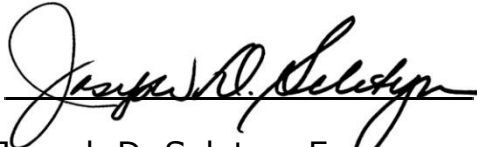
additional claims of trial court error and prosecutorial misconduct. (*Id.* at 1-3.) Appellant's brief also includes "[a]ppellant(s) [sic] state of the case" wherein appellant seemingly sets forth his argument, the bulk of which contains excerpts from his trial and random claims of trial court error and prosecutorial misconduct. (*Id.* at 7-29.) In his "state of the case," appellant fails to provide any discussion of any claim with citation to relevant authority, and appellant fails to develop any issue in a meaningful fashion capable of appellant review. Appellant's brief fails to include a summary of the argument and a titled "argument" section.

The substantial defects in appellant's brief prevent this court from conducting meaningful judicial review. "We decline to become appellant's counsel. When issues are not properly raised and developed in briefs, when the briefs are wholly inadequate to present specific issues for review a Court will not consider the merits thereof." ***Commonwealth v Maris***, 629 A.2d 1014, 1017 (Pa.Super. 1993) (citation omitted); ***see also Commonwealth v. Adams***, 882 A.2d 496, 497-498 (Pa.Super. 2005) (stating, "[a]lthough this Court is willing to liberally construe materials filed by a ***pro se*** litigant, ***pro se*** status confers no special benefit upon the appellant. To the contrary, any person choosing to represent himself in a legal proceeding must, to a reasonable extent, assume that his lack of expertise and legal training will be his undoing." (citations omitted)).

J. S21045/19

Appeal dismissed.⁶

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 10/1/19

⁶ We note that appellant's random claims of prosecutorial misconduct and trial court error at sentencing would also be waived as previously litigated. **See** 42 Pa.C.S.A. § 9544(b) (stating, "an 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 postconviction proceeding."); **see also** 42 Pa.C.S.A. § 9543(a)(3) (requiring that to be eligible for PCRA relief, a petitioner's allegation of error must not have been previously litigated or waived).