

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
TODD ASTILLERO	:	
	:	
Appellant	:	No. 1355 EDA 2018

Appeal from the Judgment of Sentence October 12, 2017
in the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0009058-2016,
CP-51-CR-0009059-2016

BEFORE: PANELLA, P.J., OLSON, J., and MUSMANNNO, J.

JUDGMENT ORDER BY MUSMANNNO, J.: **FILED DECEMBER 8, 2020**

Todd Astillero ("Astillero") appeals from the judgment of sentence imposed following his convictions, at docket number CP-51-CR-0009058-2016, of robbery, persons not to possess firearms, criminal mischief, firearms not to be carried without a license, carrying firearms on public streets in Philadelphia, possessing instruments of crime, terroristic threats, simple assault, and recklessly endangering another person,¹ and at docket number CP-51-CR-0009059-2016, of persons not to possess firearms, firearms not to be carried without a license, and carrying firearms on public

¹ **See** 18 Pa.C.S.A. §§ 3701(a)(1), 6105(a)(1), 3304(a)(2), 6106(a)(1), 6108, 907(a), 2706(a)(1), 2701(a), 2705.

streets in Philadelphia.² Additionally, Astillero's counsel, John Belli, Esquire ("Attorney Belli"), has filed a brief pursuant to ***Anders v. California***, 386 U.S. 738, 744 (1967). However, Attorney Belli has not filed a separate petition to withdraw with this Court. Thus, we direct Attorney Belli to either file an advocate's brief or fulfill all of the requirements of ***Anders***.

Pursuant to ***Anders***, when counsel believes that an appeal is frivolous and wishes to withdraw from representation, he must:

(1) petition the court for leave to withdraw stating that after making a conscientious examination of the record and interviewing the defendant, counsel has determined the appeal would be frivolous, (2) file a brief referring to any issues in the record of arguable merit, and (3) furnish a copy of the brief to defendant and advise him of his right to retain new counsel or to raise any additional points that he deems worthy of the court's attention.

Commonwealth v. Burwell, 42 A.3d 1077, 1083 (Pa. Super. 2012) (citations omitted); ***see also Commonwealth v. Santiago***, 978 A.2d 349, 361 (Pa. 2009) (addressing the requisite contents of an ***Anders*** brief).

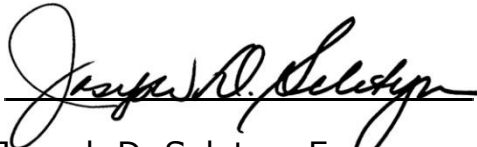
Here, Attorney Belli has filed a purported ***Anders*** Brief, and concludes that the claims raised by Astillero are frivolous. ***See Anders*** Brief at 46. However, Attorney Belli did not file a separate petition to withdraw as counsel with this Court. ***See Burwell, supra***. Accordingly, since Attorney Belli failed to either file a proper advocate's brief or fulfill the requirements set forth in ***Anders***, we cannot address Astillero's appeal.

² ***See*** 18 Pa.C.S.A. §§ 6105(a)(1), 6106(a)(1), 6108.

Based upon the foregoing, we direct Attorney Belli to either file an advocate's brief or fulfill all of the requirements of **Anders** within thirty days of the filing of this Order. The Commonwealth shall have thirty days thereafter to file a responsive brief.

Panel jurisdiction retained.

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: 12/08/2020