

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

SANTOS GONZALES,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 2040 EDA 2011

Appeal from the Judgment of Sentence of July 14, 2011,  
in the Court of Common Pleas of Philadelphia County,  
Criminal Division at No. CP-51-CR-0010987-2010

BEFORE: BENDER, LAZARUS and COLVILLE\*, JJ.

MEMORANDUM BY COLVILLE, J.:

Filed: February 20, 2013

In this direct appeal, Appellant argues the plea court erred by denying his motion to withdraw his plea of *nolo contendere* to charges of sexual assault ("SA"), corruption of minors ("COM") and unlawful contact with a minor.<sup>1</sup> We affirm the judgment of sentence.

Though we cannot be positive given the state of the record, it appears Appellant pled to all three charges on April, 4, 2011, but was sentenced on that day only at the SA and COM counts. It seems he filed a motion to

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\* Retired Senior Judge assigned to the Superior Court.

<sup>1</sup> Appellant's brief alternately claims he pled *nolo contendere* and guilty. The plea court docket indicates he pled *nolo contendere*.

withdraw one or more of his pleas on April 19, 2011.<sup>2</sup> The court apparently denied Appellant's motion on July 14, 2011, and sentenced him at the unlawful contact charge on that same day.

Appellant later filed this appeal. He contends his sentence was not in accord with his plea agreement. Appellant also seems to maintain the plea court should have used a pre-sentence standard when evaluating his motion to withdraw his plea(s) but wrongly used a post-sentence standard.

To resolve this case, this Court must, at a minimum, review the plea and sentencing transcripts. Depending on what those transcripts might say, it could also be that we would need to review the written motion to withdraw the plea(s) that was apparently filed on April 19, 2011.

None of the foregoing documents are in the certified record. Evidently aware that the transcripts are not in the record, Appellant filed a petition to supplement the record with those transcripts on December 31, 2012. On January 7, 2013, this Court entered an order giving Appellant seven days to do so. As of today, Appellant has not availed himself of that opportunity.

It is an appellant's obligation to ensure the certified record contains the documents essential to appellate review. *Commonwealth v. Wrecks*, 931 A.2d 717, 722 (Pa. Super. 2007). Appellant has not met his obligation.

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<sup>2</sup> The plea court docket reflects the filing of such a motion, but the motion itself is not in the certified record.

In the absence of the documents essential to Appellant's arguments, those arguments convince us of nothing. Therefore, we have no basis to disturb his judgment of sentence.

Judgment of sentence affirmed.