

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
v.	:	
	:	
DONALD WILLIAM MILLER,	:	No. 282 MDA 2013
	:	
Appellant	:	

Appeal from the Order Entered January 23, 2013,
in the Court of Common Pleas of Dauphin County
Criminal Division at No. CP-22-CR-0004313-2009

BEFORE: FORD ELLIOTT, P.J.E., SHOGAN AND PLATT,* JJ.

MEMORANDUM BY FORD ELLIOTT, P.J.E.: **FILED DECEMBER 24, 2013**

Appellant appeals from the order dismissing his first petition filed pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541-9546. Finding that appellant has waived all issues on appeal, we affirm.

On September 20, 2010, appellant pleaded guilty to failure to provide accurate information to state police under Megan's Law.¹ Appellant failed to report his pen name, "Donald Motier," as an alias. Appellant came to the attention of police when he began making inquiries, under the name of Donald Motier, at the church of a mother and eight-year-old boy he had met

* Retired Senior Judge assigned to the Superior Court.

¹ Appellant was convicted of involuntary deviate sexual intercourse in 1994 and was subject to the lifetime registration requirements of Megan's Law. (Order, 12/27/12 at 2.)

J. S63010/13

earlier at a Harrisburg Senators' baseball game. (Notes of testimony, 9/20/10 at 8-9.) Immediately after his plea, the court sentenced appellant to the negotiated term of five to ten years' imprisonment.

On August 22, 2011, appellant filed the instant PCRA petition *pro se*. On November 23, 2011, counsel was appointed, but on January 20, 2012, counsel filed a petition to withdraw and a "no-merit" brief pursuant to **Turner-Finley** practice. *See Commonwealth v. Turner*, 518 Pa. 491, 544 A.2d 927 (1988); *Commonwealth v. Finley*, 550 A.2d 213 (Pa.Super. 1988) (*en banc*). On December 27, 2012, the PCRA court entered an order permitting counsel to withdraw and providing appellant notice, pursuant to Pa.R.Crim.P., Rule 907, 42 Pa.C.S.A., of the court's intention to dismiss the petition without hearing within 20 days.

On January 23, 2013, the court entered an order dismissing appellant's petition. Appellant filed his notice of appeal on February 8, 2013. On March 6, 2013, the court entered an order directing appellant to file a concise statement of errors complained of on appeal within 21 days (March 27, 2013). No concise statement was filed. Thereafter, on April 5, 2013, the court entered an opinion finding that appellant had waived all of his issues and recommending that this court quash the appeal.

We find that appellant has waived all issues on appeal by failing to file the concise statement of errors complained of on appeal. *See* Pa.R.A.P., Rule 1925(b)(4)(vii), 42 Pa.C.S.A.; *Commonwealth v. Castillo*, 585 Pa.

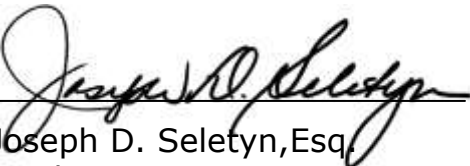
J. S63010/13

395, 403, 888 A.2d 775, 780 (2005); ***Commonwealth v. Lord***, 553 Pa. 415, 420, 719 A.2d 306, 309 (1998).²

Accordingly, having found that appellant has waived all of his issues, we will affirm the court below.

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/24/2013

² We note in passing that on July 15, 2013, appellant filed a copy of his brief on appeal with the lower court. While we believe a copy of an appellate brief could be treated as a concise statement in order to preserve an appellant's issues, in this case it was nonetheless clearly filed out of time and well beyond when the PCRA court needed the concise statement in order to produce the lower court's opinion. Such a filing here did not preserve any issues.