

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellee

v.

RYAN JOSEPH SMITH

Appellant

No. 354 EDA 2012

Appeal from the Judgment of Sentence December 1, 2011
In the Court of Common Pleas of Montgomery County
Criminal Division at No(s): CP-46-CR-0000088-2010;
CP-46-CR-0004755-2010; CP-46-CR-0006669-2009

BEFORE: GANTMAN, J., OLSON, J., and PLATT, J.*

JUDGMENT ORDER BY GANTMAN, J.:

FILED MAY 03, 2013

Appellant, Ryan Joseph Smith, appeals from the judgment of sentence entered in the Montgomery County Court of Common Pleas, following the revocation of his probation and parole. On Tuesday, January 3, 2012, Appellant timely filed a *pro se* notice of appeal, raising claims of ineffective assistance of counsel.¹

As a general rule, ineffective assistance of counsel claims should be deferred until proceedings under the Post Conviction Relief Act ("PCRA") at 42 Pa.C.S.A. §§ 9541-9546. **See generally Commonwealth v. Grant,**

¹ New Year's Day fell on Sunday; Monday, January 2, 2012, was the court holiday. In addition, Appellant has knowingly, voluntarily, and intelligently waived his right to counsel. (**See** N.T. Hearing, 7/6/12, at 2-13.)

*Retired Senior Judge assigned to the Superior Court.

572 Pa. 48, 813 A.2d 726 (2002) and its progeny. Likewise, this Court will not entertain ineffective assistance of counsel claims on direct appeal unless the defendant makes a knowing, intelligent, and voluntary waiver of PCRA review. ***Commonwealth v. Barnett***, 25 A.3d 371 (Pa.Super. 2011) (*en banc*).

Instantly, Appellant's issues deal with counsel's alleged ineffectiveness. Appellant, however, did not develop any record on his claims before the trial court and waive his right to PCRA review. ***See id.*** Thus, we decline to address those claims on direct appeal.² Instead, Appellant will have to raise his ineffectiveness of counsel claims in a timely PCRA petition. Accordingly, we affirm the judgment of sentence.

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Kevin Gambetti", written over a horizontal line.

Prothonotary

Date: 5/3/2013

² Due to our disposition, we deny Appellant's petition for relief.