

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
CHAD DONALD STONEROAD,	:	
	:	
Appellant	:	No. 403 MDA 2013

Appeal from the PCRA Order Entered February 12, 2013,  
In the Court of Common Pleas of Lebanon County,  
Criminal Division, at No. CP-38-CR-0000376-2011.

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

MEMORANDUM BY SHOGAN, J.: **FILED DECEMBER 13, 2013**

Appellant, Chad Donald Stonerod, appeals from the order dismissing his petition filed pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541-9546. We affirm.

The relevant facts and procedural history of this matter were set forth by the PCRA court as follows:

The Appellant was charged with three counts of Involuntary Deviate Sexual Intercourse, one count of Unlawful Contact or Communication with Minor, one count of Statutory Sexual Assault, three counts of Aggravated Indecent Assault, two counts of Corruption of Minors, and one count of Indecent Assault. The Appellant ultimately pled guilty to Counts IV through XI. The terms of the plea agreement were that the Commonwealth would nolle pros Counts I, II, and III, which were the Involuntary Deviate Sexual Intercourse charges, and the Appellant would enter an open plea on the remaining counts.

On October 19, 2011, the Appellant was sentenced. On Counts I, II and III, Involuntary Sexual Intercourse, on the

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\*Retired Senior Judge assigned to the Superior Court.

motion of the District Attorney to nolle pros, the motion was granted. The Appellant was further sentenced as follows, in relevant part:

Count IV, Unlawful Contact or Communication with Minor: to pay the costs of prosecution, to pay a fine of \$250, and to be incarcerated in a state correctional facility for a minimum of 4 years and a maximum of 20 years;

Count V, Statutory Sexual Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 14 months and a maximum of 10 years, concurrent with Count IV;

Count VI, Aggravated Indecent Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 5 years and a maximum of 10 years, concurrent with Count IV;

Count VII, Aggravated Indecent Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 5 years and a maximum of 10 years, concurrent with Count IV;

Count VIII, Aggravated Indecent Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 5 years and a maximum of 10 years, concurrent with Count IV;

Count IX, Corruption of Minors: to pay the costs of prosecution, to pay a fine of \$250, and to be incarcerated in a state correctional facility for a minimum of 9 months and a maximum of 5 years, concurrent with Count IV;

Count X, Corruption of Minors: to pay the costs of prosecution, to pay a fine of \$250, and to be incarcerated in a state correctional facility for a

minimum of 9 months and a maximum of 5 years, concurrent with Count IV;

Count XI, Indecent Assault: to pay the costs of prosecution, to pay a fine of \$100, and to be incarcerated in a state correctional facility for a minimum of 3 months and a maximum of 2 years, concurrent with Count IV.

(October 19, 2011 Sentencing Order).

PCRA Court Opinion, 4/26/13, at 1-3 (footnotes omitted).

On June 25, 2012, Appellant filed a *pro se* PCRA petition. The PCRA court appointed counsel, and Appellant filed an amended and counseled PCRA petition on August 13, 2012. Following a hearing held on February 12, 2013, the PCRA court issued an order dismissing Appellant's PCRA Petition. Thereafter, Appellant filed this timely appeal on February 28, 2013.

On appeal, Appellant raises the following issues:

1. Whether plea counsel was ineffective for unlawfully inducing defendant to plead guilty by advising him that he would get a lesser sentence if he took an open plea?
2. Whether plea counsel was ineffective for failing to file any pre-trial motions to have defendant's statement suppressed after his Miranda<sup>[1]</sup> rights were violated?
3. Whether plea counsel was ineffective for failing to consult with defendant regarding an appeal?

Appellant's Brief at 4 (full capitalization omitted) (footnote added).

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<sup>1</sup> **See *Miranda v. Arizona***, 384 U.S. 436 (1966) (holding that prior to a custodial interrogation, the suspect must be informed of his right to remain silent, that anything he says can be used against him in a court of law, that he has a right to an attorney, and that if he cannot afford an attorney, one will be appointed to him).

In reviewing the propriety of the PCRA court's dismissal of Appellant's petition, we are limited to determining whether the court's findings are supported by the record and whether the order in question is free of legal error. ***Commonwealth v. Ragan***, 923 A.2d 1169, 1170 (Pa. 2007). "Great deference is granted to the findings of the PCRA court, and these findings will not be disturbed unless they have no support in the certified record." ***Commonwealth v. Boyd***, 923 A.2d 513, 515 (Pa. Super. 2007).


Here, each of Appellant's issues presents a challenge to the effectiveness of plea counsel. "When evaluating ineffectiveness claims, judicial scrutiny of counsel's performance must be highly deferential. Indeed, few tenets are better settled than the presumption that counsel is effective." ***Commonwealth v. Lesko***, 15 A.3d 345, 380 (Pa. 2011) (internal quotations and citations omitted). In order to succeed on a claim of ineffective assistance of counsel, an appellant must satisfy a three-pronged test and must demonstrate: (1) that the underlying claim is of arguable merit; (2) that counsel's performance lacked a reasonable basis; and (3) that the ineffectiveness of counsel caused the appellant prejudice. ***Commonwealth v. Pierce***, 786 A.2d 203, 213 (Pa. 2001). Prejudice requires proof that there is a reasonable probability that, but for counsel's error, the outcome of the proceeding would have been different. ***Id.*** When it is clear that an appellant has failed to meet the prejudice prong of his

ineffective assistance of counsel claim, the claim may be disposed of on that basis alone, without a determination of whether the first two prongs have been met. ***Commonwealth v. Baker***, 880 A.2d 654, 656 (Pa. Super. 2005). Counsel cannot be deemed ineffective for failing to raise a meritless claim. ***Commonwealth v. Small***, 980 A.2d 549, 570 (Pa. 2009).

Upon review of the issues raised, the credibility determinations made by the PCRA court, the certified record, the briefs of the parties, and the applicable legal authority, we conclude that the PCRA court opinion entered on April 26, 2013 comprehensively and correctly disposes of Appellant's appeal. Accordingly, we affirm the order dismissing Appellant's PCRA petition, and we do so based on the PCRA court's opinion. The parties are directed to attach a copy of that opinion in the event of further proceedings in this matter.

Order affirmed.

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: 12/13/2013

IN THE COURT OF COMMON PLEAS OF LEBANON COUNTY,  
PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF  
PENNSYLVANIA

v.

CHAD DONALD STONEROAD

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No: CP-38-CR-376-2011

APPEARANCES:

Megan Ryland Tanner, Esq. for the Commonwealth  
Erin Zimmerer, Esq. for the Appellant

OPINION, KLINE, J., APRIL 26, 2013

Before the Court is the Appellant's Concise Statement of Errors  
Complained of on Appeal. For the reasons set forth herein, we find the  
alleged errors lack merit and affirm our Order dated February 12, 2013, as  
specified below.

FACTS AND PROCEDURAL HISTORY

The Appellant was charged with three counts of Involuntary Deviate  
Sexual Intercourse, one count of Unlawful Contact or Communication with  
Minor, one count of Statutory Sexual Assault, three counts of Aggravated  
Indecent Assault, two counts of Corruption of Minors, and one count of  
Indecent Assault.<sup>1</sup> The Appellant ultimately pled guilty to Counts IV  
through XI. The terms of the plea agreement were that the Commonwealth  
would nolle pros Counts I, II, and III, which were the Involuntary Deviate  
Sexual Intercourse charges, and the Appellant would enter an open plea on  
the remaining counts.

<sup>1</sup> 18 Pa.C.S.A. §3123(a)(7), 18 Pa.C.S.A §6318(a)(1), 18 Pa.C.S.A. §3122.1, 18 Pa.C.S.A. §3125(a)(8),  
18 Pa.C.S.A. §6301(a)(1), and 18 Pa.C.S.A. §3126(a)(8), respectively.

On October 19, 2011, the Appellant was sentenced. On Counts I, II and III, Involuntary Sexual Intercourse, on the motion of the District Attorney to nolle pros, the motion was granted. The Appellant was further sentenced as follows, in relevant part:

Count IV, Unlawful Contact or Communication with Minor: to pay the costs of prosecution, to pay a fine of \$250, and to be incarcerated in a state correctional facility for a minimum of 4 years and a maximum of 20 years;

Count V, Statutory Sexual Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 14 months and a maximum of 10 years, concurrent with Count IV;

Count VI, Aggravated Indecent Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 5 years and a maximum of 10 years, concurrent with Count IV;

Count VII, Aggravated Indecent Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 5 years and a maximum of 10 years, concurrent with Count IV;

Count VIII, Aggravated Indecent Assault: to pay the costs of prosecution, to pay a fine of \$500, and to be incarcerated in a state correctional facility for a minimum of 5 years and a maximum of 10 years, concurrent with Count IV;

Count IX, Corruption of Minors: to pay the costs of prosecution, to pay a fine of \$250, and to be incarcerated in a state correctional facility for a minimum of 9 months and a maximum of 5 years, concurrent with Count IV;

Count X, Corruption of Minors: to pay the costs of prosecution, to pay a fine of \$250, and to be incarcerated in a state correctional facility for a minimum of 9 months and a maximum of 5 years, concurrent with Count IV;

Count XI, Indecent Assault: to pay the costs of prosecution, to pay a fine of \$100, and to be incarcerated in a state correctional facility for a minimum of 3 months and a maximum of 2 years, concurrent with Count IV.

(October 19, 2011 Sentencing Order).

On June 25, 2012, the Appellant filed a pro se Petition for Post-Conviction Collateral Relief (hereinafter "PCRA"). The Appellant claimed he was entitled to relief due to constitutional violations, ineffective assistance of counsel, and an unlawfully induced guilty plea. The law firm of Montgomery & Zimmerer was appointed to represent the Appellant on his PCRA Petition. The Commonwealth filed a response on July 11, 2012. On July 24, 2012, this Court notified the Appellant that it was the intention of the Court to dismiss his Petition without a hearing in 20 days because he did not raise any cognizable issues in his Petition.

Appellant's counsel filed an Amended PCRA Petition on August 13, 2012.<sup>2</sup> In the Amended Petition, Appellant raised three claims, which are all framed as ineffective assistance of counsel arguments. First, he argued that plea counsel was ineffective for unlawfully inducing him to plead guilty by advising him he would get a lesser sentence if he took an open plea. Next, Appellant argued that plea counsel was ineffective because he did not file any pre-trial motions to have his statement suppressed for violating his Miranda rights. Finally, Appellant argued that plea counsel was ineffective because he did not consult with Appellant regarding an appeal. The Commonwealth filed a response to the Amended PCRA Petition on September 12, 2012.

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<sup>2</sup> Amended petitions are required on first-time PCRA cases, and the PCRA court is only permitted to address issues raised in a counseled petition. *Com. v. Markowitz*, 32 A.3d 706, (Pa. Super. 2011).



A hearing was ultimately held on the Amended PCRA Petition on February 12, 2013. At the conclusion of the hearing, this Court denied the Amended PCRA Petition. The Appellant appealed this decision on February 28, 2013. Pursuant to our 1925(b) Order, Appellant filed his Concise Statement of Matters Complained of on Appeal on April 1, 2013. On appeal, Appellant raises the exact same three ineffective assistance of counsel allegations that were raised in his Amended PCRA Petition, which were previously set forth. The case is thus before us and ripe for disposition.

### DISCUSSION

“The standard of review for an order denying post-conviction relief is limited to whether the record supports the PCRA court's determination, and whether that decision is free of legal error. The PCRA court's findings will not be disturbed unless there is no support for the findings in the certified record.” *Com. v. Johnson*, 945 A.2d 185, 188 (Pa. Super. 2008). Furthermore,

In order to be eligible for PCRA relief, a petitioner must establish by a preponderance of the evidence that his conviction or sentence resulted from one or more of the enumerated grounds in 42 Pa.C.S. § 9543(a) (2), and that the allegation of error has not been previously litigated or waived. 42 Pa.C.S. § 9543(a)(3). Under 42 Pa.C.S. § 9544(a)(2), an issue is previously litigated “if the highest appellate court in which the petitioner could have had review as a matter of right has ruled on the merits of the issue [.] Under 42 Pa.C.S. § 9544(b), 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.

*Com. v. Reyes*, 870 A.2d 888 (Pa. 2005). Ineffective assistance of counsel is one of the grounds enumerated in 42 Pa.C.S.A. §9543(a)(2).

Article I, Section 9 of the Pennsylvania Constitution, guarantees an accused the right to counsel in criminal prosecutions. This section provides,

In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage...

PA Const. Art. 1, §9. The right to counsel includes the right to the effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 686 (1984), citing *McMann v. Richardson*, 397 U.S. 759, 771, n. 14 (1970). The Pennsylvania Supreme Court has ruled, "The petitioner must still show, by a preponderance of the evidence, ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place." *Com. v. Kimball*, 724 A.2d 326, 333 (Pa. 1999). This requires a three-part test: "(1) that the claim is of arguable merit; (2) that counsel had no reasonable strategic basis for his or her action or inaction; and, (3) that, but for the errors and omissions of counsel, there is a reasonable probability that the outcome of the proceedings would have been different." *Id.* "...[W]here the petitioner has demonstrated that counsel's ineffectiveness has created a reasonable probability that the outcome of the proceedings would have been different, then no reliable adjudication of guilt or innocence could have taken place." *Id.* "A failure to satisfy any prong of the test for ineffectiveness will require rejection of the claim." *Com. v. Busanet*, 817 A.2d 1060, 1066 (Pa. 2002). Having set forth the standard, we now address Appellant's claims.

### **Unlawfully Inducing Appellant to Plead Guilty**

Appellant first alleges that plea counsel was ineffective for unlawfully inducing him to plead guilty by advising him he would get a lesser sentence if

he took an open plea.<sup>3</sup> Our Superior Court has stated,

It is clear that a criminal defendant's right to effective counsel extends to the plea process, as well as during trial. However, [a]llegations of ineffectiveness in connection with the entry of a guilty plea will serve as a basis for relief only if the ineffectiveness caused the defendant to enter an involuntary or unknowing plea. Where the defendant enters his plea on the advice of counsel, the voluntariness of the plea depends on whether counsel's advice was within the range of competence demanded of attorneys in criminal cases.

*Com. v. Wah*, 42 A.3d 335, 338-339 (Pa. Super. 2012).

The law does not require that an appellant be pleased with the results of the decision to enter a guilty plea; rather [a]ll that is required is that [appellant's] decision to plead guilty be knowingly, voluntarily and intelligently made.

*Com. v. Brown*, 48 A.3d 1275, 1277 (Pa. Super. 2012). Central to the question of whether a defendant's plea was entered voluntarily and knowingly is whether the defendant knew and understood the nature of the offenses charged, which should be explained in as plain a fashion as possible.

*Com. v. Anthony*, 475 A.2d 1303 (Pa. 1984). "A defendant is bound by the statements made during the plea colloquy, and a defendant may not later offer reasons for withdrawing the plea that contradict statements made when he pled." *Brown*, 48 A.3d at 1277.

At the conclusion of the PCRA hearing, this Jurist found that the Appellant was well aware that he was facing a sentence up to 72 years in

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<sup>3</sup> The Court notes that the guilty plea is challenged as an ineffective assistance of counsel claim. Therefore, the Court has addressed it as an ineffective assistance of counsel claim. The PCRA Act also permits a petitioner to claim relief pursuant to, "a plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the petitioner to plead guilty and the petitioner is innocent." 42 Pa.C.S.A. § 9543(a)(2)(iii). Appellant's claim was not analyzed under this subsection because there is absolutely nothing that suggests that Appellant is innocent of the crimes.

prison with Counts I, II, and III being nolle prossed.<sup>4</sup> His prior counsel made it clear what his minimum sentence was. This Jurist found that he was not unlawfully induced into a guilty plea by his prior counsel. The Appellant understood all of the risks involved with pleading guilty. This Court also found the testimony of his prior counsel, Greer Anderson, Esq., to be consistent and credible.<sup>5</sup>

Furthermore, the Appellant signed, dated, and initialed each page of a written guilty plea colloquy. The Appellant indicated the following in this colloquy, in relevant part:

- He understood the nature of the charge or charges to which he was pleading guilty, and his lawyer explained the elements of the criminal offense or offenses to which he was pleading guilty.
- He admitted to committing the crimes or crimes to which he was pleading guilty, and his criminal conduct fit the legal elements explained to him which make up the crime or crimes.
- He understood he has a right to a trial by jury.
- He understood that “the right to a jury trial means that you, together with your attorney can participate in the selection of a jury; that a jury consists of 12 people selected at random from the citizens of Lebanon County; at that trial you have the right to confront and cross-examine all of the Commonwealth’s witnesses in your case who are necessary to prove your guilt; and that the jury has to

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<sup>4</sup> The Court notes that the transcript of the PCRA hearing is not yet available for the Court’s review so the Court has used notes taken during the hearing and recollection of the hearing to address the alleged errors.

<sup>5</sup> “[I]t is the province of the trier of fact to pass upon the credibility of witnesses and the weight to be accorded the evidence produced. The factfinder is free to believe all, part or none of the evidence.” *Com. v. A.W.C.*, 951 A.2d 1174, 1177 (Pa. Super. 2008). An appellate court may not second-guess the post-conviction court’s credibility determinations. *Com. v. Donaghy*, 33 A.3d 12, 16 (Pa. Super. 2011).

agree unanimously that you are guilty beyond a reasonable doubt before you can be convicted of the crime or crimes with which you are charged; and do you understand you are presumed to be innocent until found guilty?"

- He understood that the Commonwealth has the burden of proving him guilty beyond a reasonable doubt, which means that he can remain silent and nothing can be held against him for refusing to testify in his own defense and the jury would be so instructed.
- He understood that by pleading guilty he was giving up his right to present any pretrial motions for consideration to this or a higher court in the event those motions were denied.
- He understood that if he was convicted after a trial, he could appeal the verdict to a higher court and raise any errors that were committed in the trial court, and that this could result in his being awarded a new trial or discharged, but that by pleading guilty he was giving up these rights.
- He understood that by pleading guilty, he was giving up his right, after trial, to challenge whether the Commonwealth had presented enough evidence to prove him guilty beyond a reasonable doubt.
- He understood that by pleading guilty he waives whatever defense he has to the charge/charges, and in addition he may lose the right to complain on appeal about ruling that the Court may have previously made in his case.
- He understood that the decision to enter a guilty plea was his; that he did not have to enter a plea of guilty and give up all his rights as previously explained; and that no one could force him to enter a guilty plea.

- His plea of guilty was being given freely and voluntarily, without any force, threats, pressure or intimidation.
- No promises have been made to him to persuade him to enter a plea of guilty or than the plea agreement negotiated.
- He was satisfied with the representation of his attorney.
- He had ample opportunity to consult with his attorney before reading the guilty plea colloquy and entering a plea of guilty.
- His attorney went over the meaning of the terms of the colloquy with him.
- He understood that he had a right to plead not guilty as well as guilty.

(Guilty Plea Colloquy, p. 2-4, questions 9-14, 16-21, 24).

The terms of his plea agreement were stated in full on page 6 of the written colloquy. The Appellant indicated that he understood the terms of his plea agreement, and he agreed to accept his plea agreement understanding everything outlined. (Guilty Plea Colloquy, p. 6 questions 30, 33). On p. 6 by signing and dating, the Appellant indicated, "I affirm that I have read this seven page document in its entirety and I understand its full meaning and I still, nevertheless, want to enter a plea of guilty to the offense or offenses specified."

There is no way that this Court can conclude that his plea counsel unlawfully induced him to plead guilty by advising him he would get a lesser sentence if he took an open plea. The Appellant himself made the decision to

plead guilty and not go to trial after everything was fully explained to him by his prior counsel. Appellant's alleged error lacks arguable merit, and the first prong of the ineffective assistance of counsel test is not met. Therefore, the Appellant is not entitled to relief on his claim.

### **Pre-Trial Motions**

Appellant's next argument is that plea counsel was ineffective because he did not file any pre-trial motions to have his statement suppressed for violating his Miranda Rights.<sup>6</sup> The Concise Statement does not identify what statement should have been suppressed. As stated, this Jurist found that the testimony of plea counsel to be credible and consistent. Prior counsel discussed the discovery with the Appellant and discussed his options. His plea counsel did not believe that the issue had merit. "Counsel will not be deemed ineffective for failing to assert baseless claim." *Com. v. Durah-El*, 496 A.2d 1222, 1224 (Pa. Super. 1985). "(C)ounsel's assistance is deemed constitutionally effective once we are able to conclude that the particular course chosen by counsel had some reasonable basis designed to effectuate his client's interests." *Com. v. Ray*, 396 A.2d 1218, 1220 (Pa. 1979).

The Court also questions the merit of Appellant's argument. Appellant claims his Miranda Rights were violated, yet he ultimately pled guilty to Counts IV through XI, thereby acknowledging he committed the offenses. The criminal conduct to which he pled guilty is appalling. He was well aware of what he was doing when pleading guilty, as already discussed. If Appellant legitimately thought that his constitutional rights were violated for failure to be Mirandized when being arrested, he should never have pled guilty to the crimes.

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<sup>6</sup> A record of the sentencing hearing indicates that the Appellant claimed that he never received his Miranda Warnings when he was arrested. (Sentencing Transcript, N.T. 5).

Further, question 14(a) of the guilty plea colloquy reads as follows:

Do you realize that by pleading guilty you are giving up your right to present any pretrial motions for consideration to this or a higher court in the event those motions were denied?

(Guilty Plea Colloquy, question 14(a)). Appellant marked yes to the statement in the colloquy, thereby indicating he understood this.

Accordingly, the Appellant is not entitled to relief on this claim.

### Appeal

Appellant's final argument is that plea counsel was ineffective because counsel did not consult with him regarding an appeal. The Court emphasizes that Appellant does not claim that he requested counsel to file an appeal, and counsel failed to do so. Rather, Appellant frames his argument as counsel did not consult with him regarding an appeal.

When a lawyer fails to file a direct appeal requested by the defendant, the defendant is automatically entitled to reinstatement of his direct appeal rights on the basis of ineffective assistance of counsel. *Markowitz*, 32 A.3d at 714. Where a defendant does not ask his attorney to file a direct appeal, counsel may be held ineffective if he does not consult with his client about the client's appellate rights; such ineffectiveness, however, will only be found where a duty to consult arises either because there were issues of merit to raise on direct appeal or the defendant, in some manner, displayed signs of desiring an appeal. *Id.* “[A] defendant need not demonstrate nonfrivolous grounds for appeal to establish that counsel was ineffective for failing to consult with him regarding his desire to appeal.” *Donaghy*, 33 A.3d at 17.

As stated earlier, this Jurist found the testimony of Attorney Anderson to be credible. Likewise, the testimony of Appellant was inconsistent. The Court recollects that there was evidence that plea counsel did consult with



him about an appeal. The Court was convinced that his plea counsel fully and correctly explained to Appellant all of the reasons why an appeal would be meritless in this case. More importantly, the Court was not convinced that a request to appeal was made within the requisite time frame. Therefore, Appellant did not meet his burden of proof, and he is not entitled to relief on this claim. We will enter an Order consistent with the foregoing.