

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,		IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellee		
v.		
RUSSELL FLICK,		
Appellant		No. 983 WDA 2012

Appeal from the Order entered May 25, 2012,
in the Court of Common Pleas of Clearfield County,
Criminal Division, at No(s): CP-17-CR-0001000-2009

BEFORE: BENDER, ALLEN, and MUSMANNO, JJ.

MEMORANDUM BY ALLEN, J.:

Filed: January 28, 2013

Russell G. Flick (“Appellant”) appeals from the order denying his petition for post-conviction relief filed pursuant to the Post Conviction Relief Act (“PCRA”). 42 Pa.C.S.A. §§ 9541-46. We affirm.

The PCRA court summarized the background of this case as follows:

[Appellant] agreed to plead guilty on January 7, 2010 to the crimes of Burglary, Criminal Trespass, Criminal Mischief, Theft by Unlawful Taking, and Receiving Stolen Property. In exchange, [Appellant] was to receive a minimum of two (2) years incarceration, and the Commonwealth agreed not to provide a recommendation as to whether [Appellant’s] sentence would run concurrent or consecutive to the term of incarceration he was then presently serving. On March 22, 2010, [Appellant] was sentenced by [the trial court]. The relevant portion of his sentence provided he was to serve a two (2) – ten (10) year term of incarceration *consecutive* to all periods of incarceration that were currently being served. Post-sentence relief was denied. [Appellant] filed a pro se Post Conviction Relief Act Petition on June 21, 2010, and was subsequently appointed

counsel. Argument [and a full evidentiary hearing] on the Petition was held February 3, 2012.

PCRA Court Opinion, 5/25/12, at 1.

The PCRA court dismissed Appellant's petition on May 25, 2012. Appellant filed a timely notice of appeal on June 22, 2012.¹ Appellant presents the following issues for review:

- I. WHETHER THE PCRA COURT ERRED IN DISMISSING [APPELLANT'S] PCRA PETITION ALLEGING INEFFECTIVE ASSISTANCE OF COUNSEL WHEN THE EVIDENCE INDICATED THAT TRIAL COUNSEL FAILED TO ADEQUATELY COMMUNICATE WITH [APPELLANT] IN PRE-TRIAL PROCEEDINGS.
- II. WHETHER THE PCRA COURT ERRED IN DISMISSING [APPELLANT'S] PCRA PETITION ALLEGING INEFFECTIVE ASSISTANCE OF COUNSEL WHEN THE EVIDENCE INDICATED THAT TRIAL COUNSEL FAILED TO PRESENT MITIGATING CIRCUMSTANCES AND THE ARRESTING OFFICER'S NON-OPPOSITION TO A CONCURRENT SENTENCE TO THE COURT AT SENTENCING. [sic]
- III. WHETHER THE PCRA COURT ERRED IN DISMISSING [APPELLANT'S] PCRA PETITION ALLEGING INEFFECTIVE ASSISTANCE OF COUNSEL WHEN THE EVIDENCE INDICATED THAT TRIAL COUNSEL FAILED TO ADDRESS [APPELLANT'S] SPECIFIC REQUEST FOR ADVICE ON HOW HE SHOULD PROCEED REGARDING AN APPEAL.

¹ Appellant and the PCRA court have complied with Pa.R.A.P. 1925. Although the PCRA court did not direct Appellant to file a Pa.R.A.P. 1925(b) statement, he did so on July 13, 2012. The PCRA court filed its opinion contemporaneous with its order dismissing the PCRA petition on May 25, 2012.

Appellant's Brief at 7.

We have reviewed the record and found no merit to Appellant's claims. The Honorable Paul E. Cherry, sitting as the PCRA court judge, has filed a comprehensive opinion which we adopt and incorporate herein as our own. Judge Cherry has cogently analyzed Appellant's arguments, citing prevailing statutory and case law, such that further analysis and commentary by this Court would be redundant. We therefore adopt the PCRA court's May 25, 2012 opinion as our own, and affirm the order dismissing Appellant's PCRA petition.

Order affirmed.