

**IN THE COURT OF COMMON PLEAS FOR
LYCOMING COUNTY, PENNSYLVANIA
CRIMINAL DIVISION**

COMMONWEALTH	:	
	:	
v.	:	No: 99-11,116
	:	
THOMAS HOFFMAN,	:	
Defendant	:	

OPINION AND ORDER

Before the Court is Defendant's Amended PCRA Petition, alleging that counsel at his final probation revocation hearing, held August 1, 2001, was ineffective. Defendant contends in his Petition that counsel, *inter. alia.*, failed to notify him of the date and time of the hearing and therefore he was prejudiced in that he was unable to secure the presence of a witness he wished to testify on his behalf. The Court has reviewed the transcript of the final probation revocation hearing and finds that Defendant did in fact raise the issue of his lack of notice at the time of the hearing. Additionally, Defendant asserted that if given appropriate notice he would have secured the presence of his employer, who would have testified on his behalf. It is the policy of this Court to always consider and fairly weigh any relevant evidence that any party to a proceeding wishes to present. The Court is at a loss to explain why, at a minimum, Defendant's counsel did not request a continuance of the final probation revocation hearing so that Defendant's employer could be notified and be given an opportunity to testify. The Court finds that, if in fact Defendant's employer had testified, the outcome of Defendant's probation revocation hearing might have been different.

ORDER

Accordingly, this 10th day of February, it is ORDERED and DIRECTED that Defendant's Amended PCRA Petition is **GRANTED** and present counsel is directed to file a motion to modify sentence on Defendant's behalf within ten (10) days of this Order.

By the Court,

_____ J.

xc: Eric Linhardt, Esquire
 District Attorney (KO)
 Court Administrator
 Judges
 Hon. Nancy L. Butts
 Diane Turner, Esquire
 Gary Weber, Esquire