

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1172-1999  
: (99-11,172)  
vs. :  
: Motion for Nunc Pro Tunc  
JAMAL BENNETT, : Reinstatement of Direct Appeal Rights/  
Defendant : PCRA

**ORDER**

AND NOW, this day of April 2006, the Court DISMISSES Defendant's Motion for Nunc Pro Tunc Reinstatement of Appeal Rights filed on April 6, 2006 and Defendant's Post Conviction Relief Act (PCRA) petition filed on April 6, 2006. Defendant cannot seek restoration of his appeal rights outside of the PCRA framework. Commonwealth v. Lantzy, 558 Pa. 214, 223, 736 A.2d 564, 570 (Pa. 1999)(the PCRA provides the exclusive remedy for post-conviction claims seeking restoration of appellate rights). Defendant cannot pursue a PCRA petition at this time, because his previous PCRA petition is on appeal before the Pennsylvania Superior Court.<sup>1</sup> Commonwealth v. Lark, 560 Pa. 487, 493, 746 A.2d 585, 588 (Pa. 2000)("when an appellant's PCRA appeal is pending before a court, a subsequent PCRA petition cannot be filed until the resolution of review of the pending PCRA petition by the highest state court in which review is sought, or upon the expiration of time for seeking such review").

By The Court,

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Kenneth D. Brown, P.J.

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<sup>1</sup> Although the Superior Court dismissed Defendant's appeal from the court's order dated November 3, 2005 (which denied his motion for reconsideration of substitute counsel), his appeal filed January 16, 2006 from this court's order of January 4, 2006 (which denied his PCRA) still appears to be pending, see 469 MDA 2006.

cc: Jamal Bennett, #ED9008  
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Work File