

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	No. 01-10,863
	:	CRIMINAL DIVISION
TIMOTHY A. HARMAN,	:	
Defendant	:	APPEAL

OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a)
OF THE RULES OF APPELLATE PROCEDURE

The Defendant appeals this Court's Order of June 24, 2008, wherein the Court denied Defendant's Petition for Common Law Writ of Habeas Corpus Ad Subjiciendum ("Petition"). Defendant filed his Petition on June 2, 2008, alleging that his guilty plea was unlawfully induced, ineffective assistance of counsel, and violation of the privilege against self-incrimination.

Defendant's Petition was denied for several reasons. First, the Court is unsure of the remedy which Defendant seeks. Defendant requests a Common Law Writ of Habeas Corpus Ad Subjiciendum; the Court is unable to locate any such remedy. Furthermore, the Court believes if Defendant intended a Writ of Habeas Corpus that such Petition is properly before the Federal Courts, rather than this Court.

Second, the Defendant's Petition alleges ineffective assistance of Counsel, which is to be alleged in a Petition under the Post Conviction Relief Act ("PCRA"). Defendant filed a PCRA Petition on November 24, 2003. Although finding the Defendant's Petition untimely, this Court in its Opinion of April 28, 2004, addressed Defendant's claims; the Court found that Defendant's Petition would still fail on the merits. Therefore, Defendant's allegations are not properly before this Court.

Accordingly, the Court suggests that dismissal of Defendant's Petition for Common Law
Write of Habeas Corpus Ad Subjiciendum should be affirmed.

By the Court,

Dated: _____

Nancy L. Butts, Judge

xc: DA (KO)
Timothy A. Harman, EX-2285
1600 Walters Mill Rd.
Somerset, PA 15510
Hon. Nancy L. Butts
Trisha D. Hoover (Law Clerk)
Gary L. Weber, Esq. (LLA)