

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:
	:
vs.	: NO. 1965-2005
	:
MATTHEW WATKINS,	: CRIMINAL ACTION - LAW
	:
Defendant	: PCRA

Date: December 31, 2008

OPINION and ORDER

Before the court for determination is Defendant Matthew Watkins' Petition Under Post-Conviction Relief Act filed January 10, 2008. Defendant also filed an Amended Petition Under Post-Conviction Relief Act on April 3, 2008 and a Second Amended Petition Under Post-Conviction Relief Act on May 9, 2008. Defendant challenges his conviction on the basis that his trial counsel, Jay Stillman, Esquire, of the Public Defenders' Office, provided him with ineffective assistance of counsel, and as a result Defendant is entitled to relief as his right to counsel was violated. After reviewing the petition and the claims raised therein, the court concludes that the petition must be denied.

Watkins' sentence resulted from his conviction on January 19, 2007 following trial wherein a jury convicted Watkins of Count I, Robbery (18 Pa.C.S.A. §3701(a)(1)(ii); Count II, Criminal Conspiracy (Robbery) (18 Pa.C.S.A. §903(a)(1)/18 Pa.C.S.A. §3701(a)(1)(ii); Count III, theft by Unlawful Taking or Disposition (18 Pa.C.S.A. §3921(a)); Count IV, Receiving Stolen Property (18 Pa.C.S.A. §3925(a)); Count V, Possessing Instruments of a Crime (18 Pa.C.S.A. §907(b); and Count VI, Simple Assault (18 Pa.C.S.A. §2701(a)(3)). At trial the facts established that Watkins participated in a criminal conspiracy to rob the Billtown Cab

Company, by which he had been employed. The evidence established that Watkins was the mastermind of the robbery and enlisted Shawn Harper to execute his plan; Harper was Watkins' daughter's paramour who resided with Watkins.

The jury's finding was supported by testimony of Watkins, Harper, and James Hill, another co-conspirator. Harper, Hill, and a third person carried out the perpetration of the robbery. Their testimony implicating Watkins as the mastermind was corroborated by the circumstances of the knowledge the robbers had of Billtown Cab Company operations, as testified to by the testimony of the company's dispatcher, Charles Fisher, the personal victim of the robbery. This testimony that established Watkins' guilt, even without reference to his confession, was overwhelming evidence of Watkins' guilt.

Sometime prior to the robbery, Watkins broached the subject to Harper while the two were smoking marijuana outside on the front porch of Watkins' residence and discussing some problems that Watkins was having including that he had been on medical leave since October 5th because of back surgery and had been experiencing financial difficulties. In the discussion, Watkins brought up to Harper the idea of robbing the Billtown Cab Company. Watkins told Harper that he could draw him a map of the Cab Company's layout. Watkins then provided Harper with the necessary information he needed to successfully complete the robbery. Watkins provided Harper with intelligence on the Billtown Cab Company as to why the money would be collected at the office and with a detailed map of the Cab Company's layout.

The evidence of Watkins' guilt became overwhelming when Watkins admitted at trial to drawing a map of "more or less floor plans" of the Billtown Cab Company for Harper. N.T., January 18, 2007pp. 47-48, 51. Harper took this information and used it to commit the robbery

with two accomplices he had enlisted to help him rob the Billtown Cab Company. On October 10, 2005, Harper and his two accomplices arrived at the Billtown Cab Company. They waited about forty-five minutes to one hour for the shift change. Once the shift changed, Harper and his two accomplices entered the cab company.

Charles Fisher was employed by the Billtown Cab Company as a dispatcher. As a dispatcher, he was charged with collecting the money from the drivers at the end of each shift, placing that money into money bags, and then placing those bags in a file cabinet. Fisher was on duty when Harper and his two accomplices entered the Cab Company at around 3:00 a.m. Harper and his two accomplices had their faces covered in order to conceal their identities. One of Harper's accomplices had a revolver in his possession, while Harper had a crow bar in his. Harper had the crow bar in case he needed to pry open the file cabinet to get the money bags.

The individual with the revolver pointed it at Fisher and told him not to move. Harper went about the Cab Company ripping out the phone lines. Harper then went over to the file cabinet, opened the bottom drawer, and removed the money bags. It was common knowledge among those individuals who worked at the Billtown Cab Company that the money bags would be located in the file cabinet. Typically, the bottom drawer would be locked. The drawer was not locked on this occasion, however, as Fisher was preparing to gather the money from the shift, place it in the bags, and then place the bags in the drawer.

The individual with the revolver continued to point it at Fisher as Harper took the money bags out of the drawer. The individual told Fisher not to do anything because it was not worth it. This individual also took money that had been on the counter that Fisher had yet to

place in the money bags. While the individual with the revolver and Harper were going about their business, the second accomplice stood at the doorway of the Cab Company.

Once the money bags were secured, the individual with the revolver told Fisher to get into the bathroom. Fisher complied and entered the bathroom. After Fisher went into the bathroom, Harper and his two accomplices left. Fisher waited about fifteen seconds before exiting the bathroom. Sometime after the robbery, Harper met with Watkins and gave Watkins his cut of the loot.

Watkins' original Petition Under Post-Conviction Relief Act, filed January 10, 2008, alleged that he was denied his constitutionally guaranteed right to effective representation when trial counsel:

- a. Failed to review Discovery with Petitioner until just before trial... prevent[ing] a discussion regarding possible grounds for suppression of incriminating evidence or of any potential defenses of arguable merit which were available to [him].
- b. Failure to file a Motion in Limine prior to trial to exclude the testimony of Agent Kontz [whom Watkins alleged] illegally obtained the confession [from him]. Further, that trial counsel was ineffective for failing to attempt to preclude said testimony and/or failing to object to the testimony and/or failing to file to appropriate motion to suppress the illegally obtained confession...
- c. Failure to object to testimony of Agent Kontz at trial based upon, in part, that... co-defendants were allegedly related to Agent Kontz... and that [the co-defendants] were acquitted of the sae or similar charges which were filed against [Watkins] in this matter.
- d. Failure to strike a juror and/or remove a juror for cause at voir dire upon receipt of information that said juror had read newspaper articles about the incident and [Watkins] involvement in same.
- e. Failure to request a mistrial when a juror who was sitting at trail read an article in the local newspaper during the period in which the trial was occurring...

Petition Under Post-Conviction Relief Act, January 10, 2008.

Watkins' Amended Petition Under Post-Conviction Relief Act, filed April 3, 2008, furthered that Watkins' trial counsel had asserted his own ineffectiveness at Watkins' sentencing on February 27, 2007, and alleged that Watkins was denied his constitutionally guaranteed right to effective representation when trial counsel:

Failed to file a Suppression Motion of video taped confession, maps, and written statement of Defendant including those of November 30, 2005 and December 6, 2005 given to Agent Kontz. The confession and statements made to Agent Kontz were made by [Watkins] under coercion and duress and made based upon unlawfully induced promises by Agent Koonz to [Watkins]. Trial counsel failed to file any Pre-Trial Motions to suppress same. [Watkins] further avers trial counsel asserted his own ineffectiveness for his failure to file any pre-trial motions, including a Motion in Limine to preclude the admission of the confession and written statement of [Watkins]. [Watkins] further avers that the video taped confessions, maps, and written statement of [Watkins] were unlawfully induced [by] Agent Kontz, in part, because [Watkins] was made promises by Agent Kontz to receive a sentence of Probation only in exchange for said confessions and statements to Agent Kontz. Moreover, according to trial counsel, [Watkins] was promised an eighteen (18) month sentence in the Mitigated Range in exchange for his cooperation including taped confession, written statement, and maps provided to Agent Kontz. Further, according to Petition he was to receive a sentence of Probation only for a charge of Harboring a Fugitive. [Watkins] further avers that without Agent Kontz's testimony of the confession, statement and maps of [Watkins,] no reliable adjudication of guilt of [Watkins] could have been determined by the jury. Further, [Watkins] was not cooperative at first, but after the aforesaid promises were made by Agent Kontz to [Watkins] cooperated and confessed to Agent Kontz. Further, [Watkins] avers [he] was coerced by Agent Kontz and thereafter confessed and provided statements based upon the aforesaid promises by Agent Kontz. [Watkins'] counsel's failure to file and litigate a Suppression Motion could not have been the result of any rational, strategic or tactical decision by counsel. But for Agent Kontz's testimony regarding the video taped confession and the admission of [Watkins'] written statement, [Watkins] would not have been adjudicated guilty.

Paragraph 25, Amended Petition Under Post-Conviction Relief Act, April 3, 2008. The petition furthered that "trial counsel should have filed Suppression Motion Nunc Pro Tunc after [Watkins] withdrew his guilty plea and should have attempted to suppress the confession,

maps, and statements...” *Ibid.* And that there was no rational or strategic basis for trial counsel to fail to file a Motion to Suppress Nunc Pro Tunc after [Watkins] withdrew his guilty plea.” *Ibid.*

The next paragraph of the petition, paragraph 26, added that trial counsel failed to provide Exculpatory Evidence as he did not call witness Toy Wynn to testify on behalf of Watkins. Paragraph 26, Amended Petition Under Post-Conviction Relief Act, April 3, 2008. Watkins asserts that the would-be witness would have indicated that a co-defendant “had been thinking about robbing the cab company since summer,” contrary to Shawn Harper’s testimony who indicated that they did not talk about the robbery until September or October. *Ibid.* Watkins argued that thus the testimony would have indicated ambiguities in the police report therefore raising the issue of credibility of Agent Kontz and co-defendants. *Ibid.*

An additional paragraph, paragraph 27, alleged that trial counsel failed to communicate, contact, design, execute and research a defense for Watkins’ criminal trial by failing to discuss Watkins’ case with him despite being requested to do so and thoroughly review Discovery with Watkins regarding possible grounds for Suppression of Watkins’ confession. Paragraph 27a, Amended Petition Under Post-Conviction Relief Act, April 3, 2008. The next part of the paragraph alleged that trial counsel failed to appear at Watkins’ preliminary hearing at which time Agent Kontz had discussions with Watkins without counsel and made promises to Watkins without said counsel present which resulted in Watkins’ cooperation with Agent Kontz including confessing to him, the statement being unlawfully induced by Agent Kontz’s coercive promises to Watkins. Paragraph 27b, Amended Petition Under Post-Conviction Relief Act, April 3, 2008.

After a conference held on the Amended Petition Under Post-Conviction Relief Act this Court issued an order on April 14, 2008 that asked for the allegations contained in PCRA paragraph 25 to be made more specific. This Court further found, however, that paragraph 26 and 27(b) supported the taking of testimony at an evidentiary hearing to pursue whether or not trial counsel's alleged ineffectiveness so undermined the truth determining process so as to warrant relief. These issues are the only one we found to have possible merit in Watkins' various petitions. This hearing was scheduled for July 2, 2008.

On May 9, 2008, Watkins filed a Second Amended Petition Under Post-Conviction Relief Act. In pertinent part this petition specified paragraph 25, which alleged that Watkins' confession was unlawfully coerced, by noting where in the transcript of Watkins' jury trial there is testimony where the confessions were introduced into evidence and by explaining the basis for coerciveness or unlawful inducement of Watkins' statements. Second Amended Petition Under Post-Conviction Relief Act, May 9, 2008. Watkins alleged that Agent Kontz promised him that he would receive only an eighteen month sentence, explaining that that was in the mitigated range, or less if he confessed to the facts and circumstances of the crime, including the elements of the crime charged. *Ibid.* Agent Kontz made other promises to Watkins regarding a favorable sentence prior to the video taped confession of Watkins, and prior to Watkins drawing maps and diagrams for Agent Kontz. *Ibid.* These promises were predicated upon Watkins fully cooperating with Agent Kontz, including making the video taped confession and drawing maps and diagrams. *Ibid.* Watkins was not represented by counsel at the time that Agent Kontz made promises to Watkins and the portion of the confession whereby Agent Kontz made promises to Watkins are not included in the video

because the video was either paused or because the video was not yet started. *Ibid.* Agent Kontz again made promises to Watkins just prior to Watkins' preliminary hearing regarding Watkins sentence if he fully cooperated, Watkins was without counsel at his preliminary hearing. *Ibid.* Watkins would not have provided said confessions nor waived his preliminary hearing but for the promises that Agent Kontz made to him; thus, Watkins' actions were unlawfully coerced. *Ibid.* To prove that Agent Kontz unlawfully induced Watkins' conduct, including his confession, Watkins petition cites portions of the transcript of Watkins' video taped confession, conducted by Agent Kontz on November 30, 2005 asserting that the "overall interview was coercive and/or unlawfully induced by Agent Kontz." *Ibid.*

Agent Kontz was present in all three instances, at which Watkins alleged the reason that he "cooperated" in was because being unrepresented by counsel during his videotaped confession, when he made a written statement, or when he waived his preliminary hearing, he was coerced or unlawfully induced by Agent Kontz promises. *Ibid.* Watkins' petition states that he deserves relief under the Post-Conviction Relief Act because "but for the video taped confession and related exhibits which were referenced by Agent Kontz at trial, Defendant Watkins would not have been convicted." *Ibid.* Watkins' petition also requests relief based on the fact that Watkins provided the written statement to Agent Kontz in December 6, 2005 based on unlawful promises, causing his statement to be coerced. *Ibid.* The use of evidence at trial obtained by Watkins' "cooperation" with Agent Kontz, Watkins alleges, undermined the truth determining process so as to render the jury's verdict on January 19, 2007 void and grant Watkins a new trial.

To support these allegations, on June 16, 2008, Watkins filed a Verification/Certification of Petitioner for Purposes of Post Conviction Relief Act which alleged that Agent Kootz told Watkins before the video was turned on, on 11/30/05, that Watkins would be charged only with “harboring a fugitive,” that if Watkins could retrieve the gun, all the charges “would disappear,” and that if Watkins confessed and provided evidence Agent Kontz would secure Watkins a favorable sentence. The Verification also alleged that Watkins was told charges would disappear at preliminary hearing, allegedly. In response to the facts alleged in the verification, on June 24, 2008, the Transcript of 11/30/2005 was transcribed and filed.

DISCUSSION

The Post Conviction Relief Act is the sole means of obtaining post conviction collateral relief and has subsumed the writ of habeas corpus. 42 Pa.C.S.A. § 9542; *Commonwealth v. Bennett*, 842 A.2d 953, 957 (Pa. Super. 2004); *Commonwealth v. Johnson*, 803 A.2d 1291, 1293 (Pa. Super. 2002); *Commonwealth v. Morris*, 822 A.2d 684, 692-93 (Pa. 2003). Any PCRA petition, including a second or subsequent petition, must be filed within one year of the date the judgment of sentence becomes final. 42 Pa.C.S.A. § 9545(b)(3); *Commonwealth v. Lambert*, 884 A.2d 848, 851 (Pa. 2005); *cert. denied*, 546 U.S. 1225 (2006); *Commonwealth v. Hutchinson*, 760 A.2d 50, 53 (Pa. Super. 2000).

Watkin’s PCRA Petition is timely as he did file within one year of his sentence becoming final. 42 Pa.C.S.A. § 9545(b)(3). A judgment becomes final “at the conclusion of direct review, including discretionary review to the Supreme Court of the United States and the

Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.” 42 Pa.C.S.A. § 9545(b)(3); *Commonwealth v. Abu-Jamal*, 833 A.2d 719, 724 (Pa. 2003); *see also Commonwealth v. Mazzarone*, 856 A.2d 1208, 1211 (Pa. Super. 2004), *app. denied*, 872 A.2d 1198 (Pa. 2005). Watkins was sentenced on February 27, 2007. He initially appealed from that sentence but later he withdrew his appeal by filing a Praecipe to Withdraw which was received by the Superior Court on December 17, 2007. The motion to withdraw was granted by the Superior Court on December 20, 2007, and Watkins’ sentence was finalized as of that date.

Watkins’ petitions all basically assert that the truth determining process was so undermined by the ineffective representation of trial counsel and that he is entitled to a new trial. But for the denial of his constitutionally guaranteed right of effective representation, Watkins asserts he would not have been convicted at trial. We disagree. The evidence of Watkins guilt was so overwhelming that it renders his petition for post-conviction relief meritless.

The evidence presented to the jury was clearly sufficient to establish that Watkins and Harper had entered into an agreement to rob the Billtown Cab Company. As such, Watkins was criminally liable for the acts that Harper and his two accomplices committed in furtherance of that agreement. *See Commonwealth v. Wayne*, 720 A.2d 456, 463 (Pa. 1998), *cert. denied*, 528 U.S. 834 (1999) (each individual member of a criminal conspiracy is criminally responsible for the acts of his co-conspirator committed in furtherance of the conspiracy).

Watkins was not represented by counsel during his videotaped confession, or when he made the written statement, or when he waived his preliminary hearing. Agent Kontz was present in all three instances and Watkins complains that in all three instances Watkins’

conduct was unlawfully induced or coerced by Agent Kontz' promises to Watkins. We find the credible evidence, however, as to all three instances does not support such a finding.

The complaints contained in Watkins' various petitions focus on the allegations that exculpatory evidence was not introduced and that his confession to Kontz was coerced and therefore illegal. These allegations, however, are frivolous.

Watkins asserts that Troy Wynn should have been called as a witness and his counsel failed to do so. Wynn was a friend of Harper and the third co-defendant. Watkins asserts that supposedly Wynn's testimony would have implied ambiguities in the police report therefore raising the issue of credibility of Agent Kontz and Watkins' co-defendants; Watkins alleges that Wynn's testimony would have indicated that a co-defendant had been thinking about robbing the cab company since summer even though Shawn Harper testimony indicated that he and Watkins' co-conspirators did not talk about the robbery until September or October. The proposed testimony may not be inconsistent, as Watkins alleges, as "summer" is a loose term that may be associated by different people in different ways, in a person's memory September could easily be remembered as summer by mistake or if the weather was still hot. Also, trial counsel was hesitant to call Wynn for the purpose of showing others' testimony as inconsistent since Wynn himself since changed his statement. N.T., 7/2/2008. Regardless, this proposed testimony would not have exonerated Watkins from involvement in the robbery. Even if the jury found the testimony to be inconsistent, and blamed the inconsistency on Watkins' co-defendants and Agent Kontz, the jury would have still found the evidence against Watkins overwhelming. The evidence shows that whether or not Troy Wynn was called to testify on

Watkins' behalf, the so-called exculpatory evidence would have done nothing to prevent the jury from finding Watkins guilty.

The facts also show that Watkins' confession was voluntary and was not predicated upon promises made to Watkins by Agent Kontz, and Watkins knowingly and willingly waived his right to have an attorney present at all three of the events Watkins now claims relief due to the non-presence of an attorney. On November 30, 2005, before giving a video taped confession to Agent Kontz, Watkins was Mirandized and signed a waiver to that effect which included the statements "you have an absolute right to remain silent[;] anything you say can and will be used against you in a court of law; you have a right to talk to an attorney before and have an attorney present with you during questioning;... [and] if you decide to answer any questions, you may stop at any time you wish." Defense Exhibit #1; N.T. 11/30/2005, p.11.

On December 6, 2005, when Watkins gave a voluntary statement to Agent Kontz, on the same paper the statement is given on, the same language appears making clear that Watkins was entitled not to talk and to have an attorney present. Defense Exhibit #2. The language even goes on to certify that "[n]o one denied me any of my rights, threatened or mistreated me, either by word or act, to force me to make known the facts in this statement. No one gave, offered or promised me anything whatsoever to make known the facts in this statement... I certify that no attempt was made by any law enforcement officer to prompt me what to say..." *Ibid.* Included in Watkins statement that day, was a map Watkins drew of the Billtown Cab Company. Defense Exhibit #3.

On December 20, 2005, District Magistrate James G. Carn certified that Watkins was made aware of his right to counsel and Watkins decided to make a knowing, voluntary, and

intelligent waiver of his right to a preliminary hearing without an attorney present. Watkins' statements and decisions regarding his case were not unlawfully coerced or induced and the evidence gained by Watkins' cooperation with Agent Kontz may not be suppressed in Watkins' case.

The transcript of the November 20, 2005, a video taped confession given by Watkins, is particularly telling of both Watkins' angle at seeking post-conviction relief and the fact that Watkins was not unlawfully induced or otherwise coerced into giving a confession. Agent Kootz told Watkins that for the video taped confession they must cover everything that they had already covered. Agent Kootz uses many leading questions like "You had talked about..." and "You told me." N.T., 11/20/2005, p. 11. Another example of this is when Agent Kootz questioned, "And you told him that he is obviously the best person," and Watkins answered, "Well he's, he's, not the best, I don't to make it look like I'm..." *Ibid*. As the interview progresses it is obvious that Watkins is being cooperative and is hoping that his cooperation will get him a favorable sentence:

Kootz: Is there anything else you know about this cab company robbery?

Watkins: That's about, pretty much in a nut shell there.

Kootz: Ok

Watkins: And like I told you

Kootz: Obviously since now...

Watkins: You sticking with me, I'm gonna be the witness for the police department.

Kootz: Ok, if there's anything that you think of later on you need to get in touch with me and you need to let me know...

Watkins: I'll back you guys up with everything I have to say, stick, look out for me, try to keep me out of jail. (laughs)

Kootz: Keep an eye, if there's anything that you hear, you know anything else let me know.

Id., at pp. 31 and 35. Although Watkins' confession would not have been necessary for a jury to have found him guilty, even viewing the evidence most favorably to Watkins his confession was legally obtained by Agent Kontz. On November 30, 2005, when Watkins gave his video taped confession to Watkins, an hour did pass between when Agent Kontz turned on the video and Watkins was Mirandized. *Id.*, at p. 11. Watkins was Mirandized at 5:54 p.m. and the transcript of the confession does not begin until 7:00 p.m. *Ibid.* It was obvious that in this interview Watkins gave his original statement, and the statement was then put on the record. Although an hour had passed in which there is no record, it is clear that Watkins' confession is voluntary and does not rely on promises made to him by Agent Kontz. Watkins' motive to do his own deal and save his own skin to the detriment of Harper make clear that his confession was voluntary and does not rely on supposed promises made by Kontz.

Similarly obvious from the transcript is that there was no fixed "deal" between Agent Kontz and Watkins. Watkins was happy to stay out of jail but clearly had no assurance or guarantee that he would not go to jail. Watkins gave a voluntary statement in order to save himself. Giving a statement in order to save himself further stands to reason with the fact that Watkins, with the representation of trial counsel, was attempting to get a good plea bargain by being cooperative. Trial counsel's testimony at the hearing made it clear that trial counsel did go over all the documents and evidence with Watkins and the two decided that Watkins' best course of action was to pursue a plea bargain. N.T., 7/2/2008. This went so far as to Watkins entering a guilty plea. It was only after Watkins decided, for unknown reasons, his guilty plea was not good enough that he decided to withdraw it and proceed to trial. Watkins cannot now blame trial counsel for not pursuing a different trial tactic.

Furthermore, there is no reason to believe a *Nunc Pro Tunc* suppression motion would have succeeded, and rather would probably fail to be heard on its merits, since all facts upon which all such a motion could be based was known to both Watkins and trial counsel and they chose to forego that option, and there was no legal basis to support suppression. This was not Watkins first time in the court system and he admitted at the final hearing on September 29, 2008 that he knew that if he cooperated with the system the system would treat him better and he would receive a lesser sentence. The crimes that Watkins committed were serious and he had a prior record. For Watkins to assert that he was promised only probation is not practicable nor is it supported by the evidence.

Watkins knowingly and voluntarily waived his right to have an attorney present at some critical junctions of his case, when he gave a confession, made a voluntary statement and waived his preliminary hearing, the same junctions he now believes to be unlawful and warrant a new trial. Watkins also argues, under the guise of a so-called deal that only Watkins has testified to, that his counsel is ineffective for failing to suppress evidence that would not have been suppressed even if a timely motion was made. Noting Watkins prior record and the evidence against him, Watkins and trial counsel mutually agreed to pursue strategy of cooperating with the Commonwealth and making a plea bargain. Watkins was to testify against his coconspirators at trial and receive an appropriate plea, not merely probation, in turn.

Furthermore, although trial counsel and Watkins agreed that Watkins would cooperate and make a plea agreement, trial counsel was not aware of any agreement that Watkins now references in his Petition Under Post-Conviction Relief Act, for instance receiving only

probation. The suppression issues that Watkins now raises are unsupported by any testimony except for that of Watkins in his Petition Under Post-Conviction Relief Act. Watkins confession, statement and waiver of preliminary hearing were all done willfully and were not under the pretense of unlawful promises or coercion. The evidence, therefore, cannot be suppressed. Watkins Petition Under Post-Conviction Relief Act is meritless. Accordingly, the PCRA Petition is denied.

ORDER

It is hereby ORDERED that Defendant Mathew Watkins' Petition Under Post Conviction Relief Act is denied.

Defendant shall be notified of this Opinion and Order by certified mail, return receipt requested pursuant to Pa.Crim.R.P. 907(4).

Defendant is advised that he has the right to appeal this Court's denial and dismissal of his Post Conviction Relief Act Petition.

Defendant is further advised that he has thirty days in which to file his appeal.

BY THE COURT,

William S. Kieser, Judge

cc: District Attorney
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Judges
Gary L. Weber, Esquire (Lycoming Reporter)