

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :  
 :  
 vs. : NO.1624-2006  
 :  
 JOHN WILLIAM MESSERLY, :  
 :  
 Defendant : 1925(a) OPINION

*DATE: October 19, 2009*

**OPINION IN SUPPORT OF THE ORDER OF JUNE 23, 2009 IN COMPLIANCE  
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

Defendant John William Messerly has filed a direct appeal from denial of Post Conviction Relief Act (PCRA) Petition. According to his Statement of Matters on Appeal, Mr. Messerly now challenges that “[t]he Court erred in denying the Post Conviction Act Petition where the sentence imposed was not consistent with [his] understanding of the plea agreement.”

Mr. Messerly’s PCRA had been filed on October 8, 2008, asserting this Court’s sentence imposed violated the terms of his plea agreement. This issue and other sentencing issues were previously addressed on his direct appeal to the Pennsylvania Superior Court. In its decision filed December 31, 2007 to their docket number 196 MDA 2007, the Superior Court determined that Mr. Messerly’s claim that this Court “somehow violated the terms of the plea agreement in imposing sentence... [was] belied by the record” and upon a detailed comparison between the plea agreement and the sentence, the Superior Court held that the aggregates sentence of 6 months to 14 years “was consistent with the terms of the plea agreement.” December 31, 2007, Superior Court Memorandum, p. 4. Accordingly, on January 6, 2009, we entered an order proposing dismissal of

Mr. Messerly's PCRA, explaining as the Court's reasoning that these issues had been determined on direct appeal.

Mr. Messerly responded with his *pro se* "Objection" raising the very same issue. Therefore, on June 23, 2009, we entered the dismissal of his PCRA.

Therefore, we believe this appeal should be denied.

BY THE COURT,

William S. Kieser, Senior Judge

cc: DA  
James Protasio, Esquire  
John Messerly-#GY2451, 1 Kelley Drive, Coal Township, PA 17866  
Judges  
Gary L. Weber, Esquire (Lycoming Reporter)