

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	No. 1452-2005; 1509-2005;
v.	:	1627-2005
	:	CRIMINAL DIVISION
ARON HOYT,	:	
Defendant	:	PCRA

ORDER

AND NOW, this 3rd day of March, 2011, after a conference with Counsel, and upon review of the Defendant's PCRA Petition, the Court finds no basis upon which to grant the Defendant's PCRA petition. The Defendant in this case was found guilty on several charges, one of which was an F-3 Attempted Theft by Deception (value more than \$2000), which was Count 1 of CR: 1627-2005, and the Defendant was sentenced to a 1 to 3 year sentence on that charge to run consecutive to the sentences imposed under CR: 1452-2009 and CR: 1626-2005. This charge was the result of a series of transactions in which the Defendant deposited over \$2000.00 at the Loyalsock branch of Omega Bank. On July 29, 2005, the Defendant opened a checking account with Omega Bank using a \$100.00 check on an account that had closed more than a year prior by Horizon Federal Credit Union. The following day, the Defendant deposited a second check drawn on the closed Horizon account payable to the Defendant for \$95.00, and obtained \$50.00 of this sum from Omega Bank. Finally, the Defendant presented a third check in the amount of \$1862.00 to Omega Bank on a closed Muncy Bank and Trust account. The Defendant did not successfully deposit this check as Omega Bank was at that point suspicious of the Defendant.

In the First Amended PCRA Petition, current Counsel argues that trial counsel was ineffective for failing to raise the argument that there was doubt that the Defendant ever planned

to withdraw the full amount deposited. Counsel believes that the fact that the Defendant might not have planned to withdraw over \$2000.00 means that the charge of Attempted Theft by Deception should have been graded as a first-degree misdemeanor instead of a third degree felony.

The Court finds this argument to be without merit. A person violates 18 Pa.C.S. 3922(a)(1) if that person intentionally obtains or withholds property of another by deception. A person deceives if they create or reinforce a false impression, including false impressions as to law, value, intention or other state of mind. In this case, the Defendant intentionally obtained or withheld the property of another when he opened bank accounts using money that he did not possess. The Defendant created a false impression that he possessed money valuing over \$2000.00 when he opened bank accounts and attempted to deposit checks valuing over \$2000.00 into the account. Whether the Defendant intended to withdraw the full amount deposited is irrelevant for purposes of committing the offense. Therefore, the Court find can find no evidence that trial counsel was ineffective. Furthermore, in its opinion of March 17, 2010, the Superior Court affirmed the grading of the Attempted Theft by Deception charge as a third degree felony.

As the Court finds that no purpose would be served by conducting any further hearing, none will be scheduled. Pursuant to Pennsylvania Rule of Criminal Procedure 907(1), the parties are hereby notified of the Court's intention to deny the Petition. The Defendant may respond to this proposed dismissal within twenty (20) days. If no response is received within that time period, the Court will enter an Order dismissing the Petition.

ORDER

AND NOW, this 3rd day of March, 2011, the Defendant and his attorney are notified that it is the intention of the Court to dismiss the Defendant's PCRA petition unless he files an objection to that dismissal within twenty days (20) of today's date.

By the Court,

Nancy L. Butts, President Judge

xc: Ken Osokow, Esq.
Joel McDermott, Esq.
Aron Hoyt #JD6785
Keystone Correctional