

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	
	:	
v.	:	Nos. 1280-2007
	:	CRIMINAL DIVISION
STEPHEN LYONS,	:	APPEAL
Defendant	:	

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

The Defendant appeals the Order of the Honorable Nancy L. Butts dated May 26, 2011, which dismissed the Defendant's Post Conviction Relief Act (PCRA) Petition. The Defendant filed a Notice of Appeal on June 20, 2011, and on June 28, 2011, the Court directed the Defendant, in accordance with Pa.R.A.P. No. 1925(b), to file within thirty days a concise statement of matters complained of on appeal. The Court received the Defendant's concise statement on July 11, 2011.

The Defendant raises four (4) issues on appeal: 1) the PCRA Court erred when it determined that trial counsel was not ineffective for failing to raise a sufficiency of the evidence challenge either at trial and/or post-trial challenging the sufficiency of the evidence of the count of Criminal Trespass, where, among other things, the Commonwealth failed to establish Mr. Lyons' unlicensed/unprivileged entry; 2) the PCRA Court erred when it determined that trial counsel was not ineffective for failing to raise the foregoing sufficiency of the evidence claim on direct appeal; 3) the PCRA Court erred when it determined that trial counsel was not ineffective for failing to request a lesser included instruction of defiant trespass and/or simple trespass; and 4) the PCRA Court erred when it summarily dismissed Mr. Lyons' PCRA Petition without conducting an evidentiary hearing.

The Court finds that its dismissal of the Defendant's PCRA Petition was appropriate, and for purposes of this Opinion, the Court will rely on its Opinion and Order of April 15, 2011, and Order of May 26, 2011.

By the Court,

Dated: _____

Nancy L. Butts, President Judge

xc: DA
Edward J. Rymysza, Esq.
Amanda Browning, Esq. (Law Clerk)
Gary L. Weber, Esq. (LLA)