

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWELATH OF PENNSYLVANIA,	:	
	:	DOCKET NO. 97-2006
vs.	:	CRIMINAL DIVISION
	:	
ELTON D. RUPERT, JR.,	:	
Defendant	:	

ORDER
Issued Pursuant to Pa.R.A.P. 1925(a)

By an information filed on February 8, 2006, Elton D. Rupert, Jr. was charged with two (2) counts of indecent assault (under 13 years of age) and one (1) count of corruption of minors, each being misdemeanors in the first degree. Defendant was sentenced under the above-captioned case number on March 20, 2007. No direct appeal was filed with the Superior Court. Defendant's sentence became final on April 20, 2007, and the time for filing a Post Conviction Relief Act (PCRA) petition ended on April 20, 2008. Defendant filed an untimely PCRA petition on May 2, 2008. This Court held a preliminary PCRA conference in this matter. Following that conference, this Court ordered Defendant to file an amended petition that clarified the reasons behind his untimely filing. Additionally, if an evidentiary hearing was requested, this Court required the amended petition to specifically set forth and contain signed certifications as to each witness as provided by 42 Pa.C.S.A. § 9545(d).

Over three years later, on September 14, 2011, Defendant filed a Petition for an Evidentiary Hearing under the PCRA. This most recently filed petition does not include an exception to the timeliness requirements for filing a PCRA petition set forth in 42 Pa.C.S.A. § 9545(b). By order dated September 16, 2011, this Court notified Defendant that it was going to dismiss Defendant's PCRA petition unless he filed an objection to that dismissal within twenty (20) days. Defendant filed a response and objection on October 10, 2011. Again, Defendant's

response was filed outside of the twenty (20) day deadline imposed by this Court's September 16, 2011 Order. By an order dated October 13, 2011, this Court dismissed Defendant's PCRA petition because it failed to meet the requirements of an exception to the PCRA timeliness constraints.

On November 14, 2011, Defendant filed his Notice of Appeal. This Court notes that Defendant failed to file his appeal within the thirty (30) days subsequent to the entry of the October 13, 2011 Order. *See* Pa.R.A.P. 903(a). The Court provided Defendant notice of his appellate rights, along with the appropriate appellate procedure and time frame, within its October 13, 2011 Order. Not only did this Court forward that order to Defendant's attorney, but to Defendant himself.

In Defendant's Concise Statement of Matters Complained of on Appeal, he raises the same issues addressed by this Court in its Order dated October 13, 2011. Therefore, for purposes of this appeal, this Court relies upon its Order dated October 13, 2011, and this Court respectfully requests that its Order be affirmed.

BY THE COURT,

Date

Richard A. Gray, J.

cc: Ken Osokow, Esquire
Frederick D. Lingle, Esquire
Elton D. Rupert, Jr., # HU9842
SCI Waymart, P.O. Box 256, Route #6, Waymart, PA 18472
Gary L. Weber, Esquire