IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,

:

v. : No. 1450-2008

:

ADAM WOODRING, : CRIMINAL DIVISION

Defendant : APPEAL

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

On October 29, 2009, Adam Woodring (Defendant) was found guilty of offenses that include Involuntary Deviate Sexual Intercourse, Indecent Assault, and Endangering Welfare of Child. The Defendant was sentenced to an aggregate sentence of fourteen (14) to twenty-eight (28) years in a State Correctional Institution followed by four (4) years of probation. The Defendant appealed the denial of his Post-Sentence Motions to the Superior Court of Pennsylvania, which were denied on January 14, 2011. Defendant filed a timely Post Conviction Relief Act (PCRA) Petition on September 12, 2011. Counsel assigned to represent the Defendant, Donald F. Martino, Esq., amended the initial PCRA Petition on June 20, 2012. After a Court Conference, this Court proposed dismissal of the Defendant's PCRA Petition in an Opinion and Order dated August 13, 2012. After receiving no response from PCRA counsel, this Court dismissed the PCRA Petition on September 11, 2012.

On September 21, 2012, the Defendant filed a Notice of Appeal. Subsequently, this Court requested a concise statement of the matters complained of on appeal in accordance with Pa.R.A.P. 1925(b). On October 3, 2012, the Defendant raised two (2) issues in his 1925(b) statement: 1) the trial court erred by denying Appellant's Amended Post Conviction Relief Act petition filed June 20, 2012 without conducting an evidentiary hearing to address the issues set forth in Appellant's petition and the information contained in Appellant's witness certifications

and 2) the trial court erred by denying Appellant's claim that trial counsel was ineffective for

failing to call character witnesses by failing to discuss with Appellant the importance of calling

character witnesses.

The trial court erred by denying Appellant's Amended PCRA Petition without conducting an

evidentiary hearing or reviewing the Appellant's witness certifications

The Defendant argues that the Court erred when it denied his PCRA Petition without an

evidentiary hearing. "[A] PCRA petitioner is not entitled to an evidentiary hearing as a matter of

right, but only where the petition presents genuine issues of material fact. . . . A PCRA court's

decision denying a claim without a hearing may only be reversed upon a finding of an abuse of

discretion." Commonwealth v. McLaurin, 45 A.3d 1131, 1135-1136 (Pa. Super. 2012) (citations

omitted). Based upon the Opinion and Order filed on August 13, 2012, this Court finds that the

Defendant has not established any genuine issues of material fact or that he is entitled to PCRA

relief.

The trial court erred by denying Appellant's claim that trial counsel was ineffective for failing to call character witnesses by failing to discuss with Appellant the importance of calling

to call character witnesses by failing to discuss with Appellant the importance of calling

character witnesses

For purposes of this Opinion, the Court will rely on Judge Butts' Opinion and Order

dated August 13, 2012, which determined that the Defendant was not denied a fair trial because

character evidence of truthfulness and non-violence were not admissible at trial.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc:

DA

Donald Martino, Esq.

2