

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	No. 615-CR-2007
	:	CRIMINAL DIVISION
JAVIER CRUZ-ECHEVARRIA,	:	
Defendant	:	APPEAL

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

On June 13, 2012, the Defendant filed a Post-Conviction Relief Act (PCRA) Petition. This Court appointed Julian Allatt, Esq. to represent the Defendant on his Petition. On February 26, 2013, the Defendant filed a Motion to Waive Counsel. On May 14, 2013, at the time of the Grazier Hearing, the Defendant withdrew his Motion to Waive Counsel on the record and an additional PCRA conference was scheduled.

On July 23, 2013, Attorney Allatt filed an amended PCRA Petition. The Petition alleged three (3) issues: 1) whether trial counsel was ineffective for failing to object when the Court improperly expressed that Durrant and the Defendant were accomplices; 2) Whether trial counsel was ineffective for failing to pursue a “revenge theory” on cross examination to impeach Durrant; and 3) whether trial counsel was ineffective for failing to request a cautionary or limiting instruction from the trial court following Durrant’s outburst.

On August 30, 2013, this Court proposed the dismissal of the Defendant’s PCRA Petition for failing to allege an issue with merit and gave him twenty (20) days to file an objection. After receiving no response by the Defendant, this Court dismissed the PCRA Petition on October 3, 2013 and notified the Defendant of his right to appeal. On October 28, 2013, the Defendant filed

pro se Objections to Notice of Intent to Dismiss, which this Court did not have jurisdiction to consider since the PCRA Petition had already been dismissed.

On November 1, 2013, Attorney Allatt filed a Notice of Appeal on behalf of the Defendant. On November 15, 2013, this Court directed the Defendant to file a concise statement of matters complained of on appeal. The Defendant raised the same three issues previously addressed by this Court in the proposed dismissal of his PCRA Petition.

Therefore, for purposes of this Opinion, the Court will rely on its Opinion and Order dated August 30, 2013, which found that the Defendant's PCRA Petition lacked merit.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc: DA
Julian Allatt, Esq.