

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	No: 167-2007
v.	:	
	:	CRIMINAL DIVISION
JERMAR HINES,	:	APPEAL
Defendant	:	

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

On June 17, 2011, the Defendant filed a *pro se* Post Conviction Relief Act (PCRA) Petition. On August 24, 2011, Lori Rexroth, Esquire amended the PCRA Petition. On September 11, 2012, Attorney Rexroth stopped serving as conflict counsel for Lycoming County and the case was transferred to Julian Allatt, Esquire. On December 19, 2012, following a conference with Attorney Allatt, this Court proposed the dismissal of Defendant's PCRA Petition. The Court addressed six (6) issues raised by Attorney Rexroth's Amended PCRA Petition: a) trial court failed to properly colloquy the Defendant as to his waiver of his right to a jury trial; b) trial counsel provided ineffective assistance of counsel by failing to properly advise the Defendant of the process of the case stated trial process, resulting in the Defendant's waiver of jury trial to be invalid; c) trial counsel provided ineffective assistance of counsel by failing to properly investigate and calculate both the Defendant's prior criminal record and his Prior Record Score; d) trial counsel provided ineffective assistance of counsel by failing to properly advise the Defendant of the potential sentence exposure to which he was subjected or the applicable mandatory minimum sentence to which he was facing; e) trial counsel provided ineffective assistance of counsel by failing to preserve sentencing issues for reconsideration by the Trial

Court; and f) trial counsel provided ineffective assistance of counsel by failing to properly preserve all issues for appeal.

On January 7, 2013, the Defendant filed a *pro se* motion objecting to the Court's proposed dismissal of his PCRA Petition. On January 17, 2013, this Court issued an order stating that if Attorney Allatt did not file objections to the proposed dismissal of the Petition the Court would still address the issues raised in the *pro se* Motion. Attorney Allatt did not file objections and this Court addressed the Defendant's objections in another Opinion and Order dated February 12, 2013, in which the Court also dismissed the PCRA Petition. The Court covered the additional issue of whether trial counsel was ineffective for not properly advising the Defendant of a case stated/stipulated trial. The Defendant also raised ineffectiveness of counsel claims against his prior and present PCRA Attorneys.

On March 6, 2013, the Defendant filed a *pro se* Notice of Appeal to the Superior Court of Pennsylvania. On March 8, 2013, this Court requested the Defendant to file a concise statement of the matters complained of on appeal in accordance with Pa.R.A.P. 1925(b)(1). On April 5, 2013, the Defendant filed a *pro se* concise statement of matters complained of on appeal, which included eighteen (18) issues. Most of the issues raised had not been previously raised or addressed by this Court. In addition, the Defendant raised issues covered by a suppression motion, which have already been addressed by the Superior Court. Commonwealth v. Hines, No. 840 MDA 2009 (Pa. Super. filed February 3, 2011). Subsequently, the Court realized that Attorney Allatt did not receive the request for a concise statement and gave him an additional twenty (20) days to file a concise statement. On May 3, 2013, the Attorney Allatt raised two issues, which were whether the trial court erred by dismissing Defendant's claim that trial counsel was ineffective for failing to properly advise the Defendant as to the case stated trial

process, and whether the trial court erred by dismissing Defendant's claim that trial counsel was ineffective by failing to preserve sentencing issues for reconsideration by the trial court.

For purposes of this Opinion, the Court will rely on its Opinions and Orders dated December 19, 2012 and February 13, 2013, which found that the Defendant's PCRA Petition was without merit.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc: DA
Julian Allatt, Esq.
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