

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>No: 1776-2009</b>
<b>v.</b>	:	
	:	<b>CRIMINAL DIVISION</b>
<b>BRIAN D. NEWTON JR.,</b>	:	<b>APPEAL</b>
<b>Defendant</b>	:	

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

On April 28, 2010, following a jury trial Brian Newton, Jr. (Defendant) was found guilty of fifteen (15) drug related charges. On August 3, 2010, the Defendant was sentenced by this Court to an aggregate sentence of three (3) to six (6) years in a State Correctional Institution with a consecutive period of one (1) year supervision. On August 13, 2010, the Defendant filed Post-Sentence Motions, which were denied by this Court. On appeal, the Superior Court of Pennsylvania granted in part and remanded for resentencing. On December 2, 2011, this Court resentenced the Defendant to two (2) years and nine (9) months to six (6) years in a State Correctional Institution with a consecutive period of one (1) year supervision.

On December 6, 2012, the Defendant filed a *pro se* Post Conviction Relief Act (PCRA) Petition. The Defendant alleged three (3) issues: 1) whether trial counsel was ineffective for failing to give proper representation; 2) whether trial counsel was ineffective for failing to object to false and incorrect statements made by the prosecution during closing arguments to the jury; and 3) whether trial counsel was ineffective for failing to object to the prosecutors attempt to inflame the jury during closing arguments. On February 28, 2013, Donald Martino, Esquire, who was appointed to represent the Defendant, filed a Motion to Withdraw as Counsel and a Memorandum Pursuant to Turner/Finley. On April 16, 2013, the Court agreed with Attorney

Martino and granted the Motion to Withdraw. In addition, the Court proposed the dismissal of the PCRA Petition and gave the Defendant twenty (20) days to file an objection. On May 13, 2013, the Court dismissed the PCRA Petition as the Defendant did not file any objections.

On June 14, 2013, the Defendant filed a Notice of Appeal with the Superior Court of Pennsylvania. In accordance with Pa.R.A.P. 1925(b), the Court directed the Defendant to file a concise statement of the matters complained of on appeal. On July 19, 2013, the Defendant filed a concise statement and alleged the three (3) issues previously raised in his PCRA Petition.

For purposes of this Opinion, the Court will rely on its Opinion dated April 16, 2013, which found that the Defendant's PCRA Petition lacked merit.

DATE: \_\_\_\_\_

By the Court,

Nancy L. Butts, President Judge

xc: DA  
Brian D. Newton, Jr. #JR-6914  
SCI Rockview  
Box A  
Bellefonte, PA 16823-0820