

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-825-2013
v.	:	
	:	
TERRANCE HOPSON,	:	PCRA GRANTED
Defendant	:	

ORDER

AND NOW, this 12th day of December, 2016, after a court conference on PCRA Counsel's Amended Petition for Post Conviction Relief and an independent review of the record, the Defendant's Amended PCRA Petition filed September 1, 2016, is hereby GRANTED.

The Defendant's right to appeal the Superior Court's Order filed October 27, 2015, is reinstated nunc pro tunc, as it is established in the record that Defendant requested that his attorney petition the Supreme Court for Allowance of Appeal and such failure to appeal is per se ineffectiveness of counsel:

Where there is an unjustified failure to file a requested direct appeal, the conduct of counsel falls beneath the range of competence demanded of attorneys in criminal cases, denies the accused the assistance of counsel guaranteed by the Sixth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution, as well as the right to direct appeal under Article V, Section 9 of the Pennsylvania Constitution, and constitutes prejudice for purposes of Section 9543(a)(2)(ii). Therefore, in such circumstances, and where the remaining requirements of the PCRA are satisfied, the petitioner is not required to establish his innocence or demonstrate the merits of the issue or issues which would have been raised on appeal. We reasoned that counsel's unjustified failure to perfect a requested appeal is the functional equivalent of having absolutely no representation at all on direct appeal, a clear violation of the federal and state constitutional right to counsel, and that where this occurs, there is no need for the appellant to show the merits of the underlying issues he would have raised on appeal.

Commonwealth v. Liebel, 825 A.2d 630, 635 (Pa. 2003) (citations omitted).

As to the other issues Defendant raised in his PCRA Petition, the Court finds them to be without merit and already addressed at his initial appeal of the Order of Sentence.

PCRA Counsel, Trisha Hoover Jasper, Esq., remains appointed to represent Defendant in his Petition for Allowance of Appeal to the Supreme Court of Pennsylvania.

BY THE COURT,

Nancy L. Butts, P.J.

cc: Trisha Hoover Jasper, Esq. PCRA Counsel
Kenneth Osokow Esq. First Assistant District Attorney