

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
v.	:	
MYRON ECHOLS,	:	
Appellant	:	No. 1637 EDA 2013

Appeal from the Judgment of Sentence May 6, 2013  
In the Court of Common Pleas of Delaware County  
Criminal Division No(s): CP-23-CR-0005991-2012

BEFORE: BENDER, P.J., SHOGAN, and FITZGERALD,\* JJ.

MEMORANDUM BY FITZGERALD, J.:

**FILED APRIL 23, 2014**

Appellant, Myron Echols, appeals from the judgment of sentence entered in the Delaware County Court of Common Pleas following his negotiated guilty plea for aggravated assault.<sup>1</sup> On appeal, Appellant claims his plea was not knowing, intelligent, and voluntary. Appellant’s counsel has filed a petition to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *Commonwealth v. Santiago*, 978 A.2d 349 (Pa. 2009), with this Court. We grant counsel’s petition and affirm the judgment of sentence.

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\* Former Justice specially assigned to the Superior Court.

<sup>1</sup> 18 Pa.C.S. § 2702(a).

For purposes of our review, recitation of the facts of this case is unnecessary. On May 6, 2013, Appellant was sentenced to three-and-a-half to seven years' incarceration, with credit for time served from May 15, 2012, through May 6, 2013. Appellant timely appealed and timely filed a court-ordered Pa.R.A.P. 1925(b) statement.

On October 28, 2013, Appellant's counsel filed a petition to withdraw with this Court. "[T]his Court may not review the merits of the underlying issues without first passing on the request to withdraw." **Commonwealth v. Garang**, 9 A.3d 237, 240 (Pa. Super. 2010) (citation omitted).

[T]he three requirements that counsel must meet before he or she is permitted to withdraw from representation [are] as follows:

First, counsel must petition the court for leave to withdraw and state that after making a conscientious examination of the record, he has determined that the appeal is frivolous; second, he must file a brief referring to any issues in the record of arguable merit; and third, he must furnish a copy of the brief to the defendant and advise him of his right to retain new counsel or to himself raise any additional points he deems worthy of the Superior Court's attention.

**Id.** (citations and footnote omitted).

[I]n the **Anders** brief that accompanies court-appointed counsel's petition to withdraw, counsel must: (1) provide a summary of the procedural history and facts, with citations to the record; (2) refer to anything in the record that counsel believes arguably supports the appeal; (3) set forth counsel's conclusion that the appeal is frivolous; and (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

**Santiago**, 978 A.2d at 361.

[I]n Pennsylvania, when counsel meets his or her obligations, "it then becomes the responsibility of the reviewing court to make a full examination of the proceedings and make an independent judgment to decide whether the appeal is in fact wholly frivolous."

**Id.** at 355 n.5 (citations omitted).

Instantly, in counsel's **Anders** brief, he stated that he made a conscientious examination of the record. Counsel summarized the factual and procedural history with citations to the record. Counsel referred to every issue and everything in the record that he believes arguably supports the appeal. He articulated the facts from the record, case law, and statutes that led him to conclude that the appeal is frivolous. Counsel furnished a copy of the brief to Appellant. Appellant's counsel also advised appellant of his right to retain new counsel or to himself raise any additional points *pro se* that he deems worthy of the Court's consideration. We find that Appellant's counsel has complied with all the requirements set forth above. **See id.** at 361; **Garang**, 9 A.3d at 240. Therefore, we now review the underlying issues on appeal. **See Santiago**, 978 A.2d at 355 n.5.

The **Anders** brief contends Appellant's plea was not knowing, intelligent, and voluntary because Appellant did not know what he was pleading guilty to nor did he know what his sentence was going to be. Appellant's Brief at 5.

Our law is clear that, to be valid, a guilty plea must be knowingly, voluntarily and intelligently entered. There is no absolute right to withdraw a guilty plea, and the decision as to whether to allow a defendant to do so is a matter within the sound discretion of the trial court. To withdraw a plea after sentencing, a defendant must make a showing of prejudice amounting to manifest injustice. A plea rises to the level of manifest injustice when it was entered into involuntarily, unknowingly, or unintelligently. A defendant's disappointment in the sentence imposed does not constitute manifest injustice.

In order to ensure a voluntary, knowing, and intelligent plea, trial courts are required to ask the following questions in the guilty plea colloquy:

- 1) Does the defendant understand the nature of the charges to which he or she is pleading guilty or *nolo contendere*?
- 2) Is there a factual basis for the plea?
- 3) Does the defendant understand that he or she has the right to a trial by jury?
- 4) Does the defendant understand that he or she is presumed innocent until found guilty?
- 5) Is the defendant aware of the permissible ranges of sentences and/or fines for the offenses charged?
- 6) Is the defendant aware that the judge is not bound by the terms of any plea agreement tendered unless the judge accepts such agreement?

The guilty plea colloquy must affirmatively demonstrate that the defendant understood what the plea connoted and its consequences. Once a defendant has entered a plea of guilty, it is presumed that he was aware of what he was doing, and the burden of proving involuntariness is upon him. . . . Furthermore, nothing in the rule precludes the supplementation of the oral colloquy by a written colloquy that is read, completed, and signed by the defendant and made a part of the plea proceedings.

**Commonwealth v. Bedell**, 954 A.2d 1209, 1212-13 (Pa. Super. 2008) (punctuation, formatting, and citations omitted).

In the instant case, the trial court accepted Appellant's plea of guilty following his full and complete colloquy. N.T. Guilty Plea Hr'g, 5/6/13, at 14. At the hearing, Appellant testified that he understood the nature of the charge to which he was pleading guilty, that he was entitled to a jury trial, that he is presumed innocent until found guilty, the permissible range of sentences and/or fines, and that the judge has the discretion to refuse or accept the plea agreement. **Id.** at 6-9. Furthermore, Appellant acknowledged reading and initialing each paragraph of the guilty plea statement. **Id.** at 10. Appellant agreed that he could read, write, and understand the English language and testified that he was not under the influence of any substance that would impair his judgment. **Id.** at 8. Finally, the Commonwealth introduced the affidavit of probable cause to establish a factual basis for the charge against Appellant. **Id.** at 12.

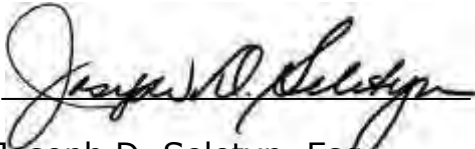
After careful consideration of the parties' briefs and the record, we conclude that Appellant has failed to meet his burden to prove that he entered his guilty plea involuntarily. **See Bedell**, 954 A.2d at 1212-13. Our caselaw mandates that we accept the sworn responses of Appellant at the time of the plea hearing and Appellant has not directed this Court to any evidence of record that would permit us to conclude that Appellant's guilty plea was anything but knowing, intelligent, and voluntary. **See id.** Our

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independent review of the record reveals no other issue of arguable merit. **See *Santiago***, 978 A.2d at 355 n.5. Accordingly, we conclude that the appeal is frivolous and grant counsel's petition for leave to withdraw.

Counsel's petition for leave to withdraw granted. Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 4/23/2014

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