

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

JAMEEL EARTHY EAST

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 2435 EDA 2013

Appeal from the Judgment of Sentence June 26, 2013  
In the Court of Common Pleas of Montgomery County  
Criminal Division at No.: CP-46-CR-0005484-2011

BEFORE: FORD ELLIOTT, P.J.E., LAZARUS, J., and WECHT, J.

JUDGMENT ORDER BY WECHT, J.:

**FILED APRIL 17, 2014**

Jameel Earthy East (“East”) appeals from his June 26, 2013 judgment of sentence. East’s counsel has filed a brief asserting that East’s appeal is wholly frivolous. Counsel does not explicitly style his brief as an “***Anders/Santiago***” brief.<sup>1</sup> However, because counsel argues that his client’s claims are frivolous, we will treat the submission as an ***Anders/Santiago*** brief. Ultimately, we remand due to counsel’s failure to comply with the procedural requirements of ***Anders/Santiago***.

In relevant part, a brief pursuant to ***Anders/Santiago*** must:

(1) provide a summary of the procedural history and facts, with citations to the record;

---

<sup>1</sup> ***See Anders v. California***, 386 U.S. 738, 744 (1967); ***Commonwealth v. Santiago***, 978 A.2d 349, 361 (Pa. 2009).

- (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.

***Commonwealth v. Washington***, 63 A.3d 797, 800 (Pa. Super. 2013) citing ***Santiago***, 978 A.2d at 361. We note that East's brief substantially complies with these requirements. However, counsel **also** must provide a copy of the ***Anders/Santiago*** brief to the appellant. Attending that copy must be a letter advising the appellant of his or her right to "(1) retain new counsel to pursue the appeal; (2) proceed *pro se* on appeal; or (3) raise any points that the appellant deems worthy of the court's attention in addition to the points raised by counsel in the ***Anders*** brief." ***Commonwealth v. Nischan***, 928 A.2d 349, 353 (Pa. Super. 2007).

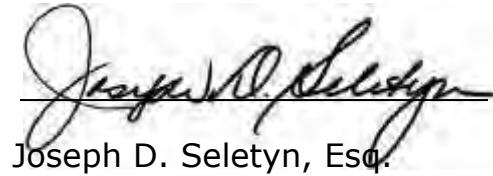
Instantly, nothing in the record confirms that counsel ever provided a copy of the instant brief to his client, or establishes that counsel ever sent East a letter informing him of his rights pursuant to ***Nischan***. Moreover, one of the explicit requirements of ***Anders/Santiago*** is the submission by counsel of a petition to withdraw. ***See Commonwealth v. Goodwin***, 928 A.2d 287, 290 (Pa. Super. 2007) (*en banc*). "[Counsel's] role as advocate requires that he support his client's appeal to the best of his ability. Of course, if counsel finds his case to be wholly frivolous, after a conscientious

examination of it, he should so advise the court and request permission to withdraw.” **Santiago**, 978 A.2d at 354 (quoting **Anders**, 386 U.S. at 744). Instantly, counsel has not filed a petition to withdraw. Thus, counsel has failed to comply with the technical requirements of **Anders/Santiago**.

Consequently, we direct East’s counsel either to re-file his **Anders/Santiago** brief, along with a proper petition to withdraw, or to file a responsive advocate’s brief within thirty days of the date of this decision. Should East’s counsel choose to re-file a responsive **Anders/Santiago** brief, we direct him to adhere to the requirements described earlier within this order. In addition to complying with the briefing requirements of **Anders** and **Santiago**, counsel also must provide a copy of the brief to East. Additionally, counsel must give notice to East, in writing, that he has the right to retain new counsel, to proceed with his appeal *pro se*, and/or to provide this Court with any information East deems worthy of our attention. If counsel files an **Anders/Santiago** brief and a petition to withdraw, East may file his own brief through private counsel, or *pro se*, within forty-five days of his receipt of appointed counsel’s petition to withdraw.

Case remanded. Jurisdiction retained.

Judgment Entered.

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

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 4/17/2014