

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

THOMAS REED GALLOWAY, JR.,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1388 WDA 2013

Appeal from the PCRA Order entered June 28, 2013
in the Court of Common Pleas of Westmoreland County,
Criminal Division, at No(s): CP-65-CR-0001174-2010.

BEFORE: GANTMAN, P.J., ALLEN, and STABILE, JJ.

MEMORANDUM BY ALLEN, J.:

FILED APRIL 22, 2014

Thomas Reed Galloway, Jr. ("Appellant") appeals *pro se* from the order denying his second petition for relief under the Post Conviction Relief Act ("PCRA"). 42 Pa.C.S.A. §§ 9541-9546.

On December 9, 2010, a jury convicted Appellant of a firearm violation. On March 3, 2011, the trial court sentenced Appellant to a term of five to ten years of imprisonment. Appellant filed a timely appeal to this court. In an unpublished memorandum filed on November 22, 2011, this Court affirmed Appellant's judgment of sentence. ***Commonwealth v. Galloway***, 38 A.3d 939 (Pa. Super. 2011). On July 3, 2012, our Supreme Court denied Appellant's petition for allowance of appeal. ***Commonwealth v. Galloway***, 47 A.3d 844 (Pa. 2012).

On July 17, 2012, Appellant filed a timely *pro se* PCRA petition. Thereafter, the PCRA court appointed counsel to represent Appellant and to file an amended PCRA if warranted. On July 25, 2012, however, Appellant filed a "Waiver of Counsel [Pa.R.Crim.P.] Rule 121(A)," in which he stated that he knowingly, voluntarily, and intelligently waived counsel and sought to proceed *pro se*. On August 24, 2012, the PCRA court held a waiver of counsel colloquy with Appellant. At the hearing's conclusion, the PCRA court determined that Appellant's waiver of counsel was valid. Nevertheless, the PCRA court appointed previously assigned attorney as standby counsel.

The PCRA court held evidentiary hearings with regard to Appellant's PCRA petition on January 15, 2013 and February 4, 2013. By opinion and order entered June 13, 2013, the PCRA court denied Appellant's petition. On June 24, 2013, Appellant filed an "Objection to Opinion of Court Regarding Petitioner's Motion for PCRA, Compelling this Court to Address Subject Matter." The PCRA court did not act on this filing. On June 27, 2013, Appellant filed a "Subsequent Petition for PCRA, Reargument." By order entered June 28, 2013, the PCRA court denied Appellant's subsequent PCRA petition.

On July 15, 2013, Appellant filed a petition for *habeas corpus* relief with this Court. By order entered August 14, 2013, this Court's prothonotary treated the filing as Appellant's attempt to file a notice of appeal from the PCRA court's June 28, 2013 order denying his second PCRA petition. Thus, we transferred Appellant's filing to the PCRA court for

processing as a notice of appeal. The PCRA court did not require Pa.R.A.P. 1925 compliance.

In reviewing the propriety of an order granting or denying PCRA relief, an appellate court is limited to ascertaining whether the record supports the determination of the PCRA court and whether the ruling is free of legal error. ***Commonwealth v. Johnson***, 966 A.2d 523, 532 (Pa. 2009). We pay great deference to the findings of the PCRA court, “but its legal determinations are subject to our plenary review.” ***Id.*** A PCRA court may decline to hold a hearing on the petition if the PCRA court determines that petitioner’s claim is patently frivolous and is without a trace of support in either the record or from other evidence. ***Commonwealth v. Jordan***, 772 A.2d 1011, 1104 (Pa. Super. 2001).

Before reaching the merits of Appellant’s claims, we note the shortcomings of his *pro se* brief, entitled “Habeas Corpus[;] Newly Discovered Evidence.” The Pennsylvania Rules of Appellate Procedure provide the following guidelines regarding the content of an appellant’s brief:

Rule 2111. Brief of Appellant

- (a) General rule.**—The brief of the appellant, except as otherwise prescribed by these rules, shall consist of the following matters, separately and distinctly entitled and in the following order.
- (1) Statement of Jurisdiction.
 - (2) Order or other determination in question.
 - (3) Statement of both the scope of review and the standard of review.

- (4) Statement of the questions involved.
- (5) Statement of the case.
- (6) Summary of argument.
- (7) Statement of the reasons to allow an appeal to challenge the discretionary aspects of a sentence, if applicable.
- (8) Argument for appellant.
- (9) A short conclusion stating the precise relief sought.
- (10) The opinions and pleadings specified in (b) and (c) of this rule.
- (11) In Superior Court, a copy of the statement of errors complained of on appeal, filed with the trial court pursuant to Rule 1925(b), or an averment that no order requiring a statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) was entered.

(b) Opinions below.—There shall be appended to the brief a copy of any opinions delivered by any court or other government unit below relating to the order or other determination under review, if pertinent to the questions involved. If an opinion has been reported, that fact and the appropriate citation shall also be set forth.

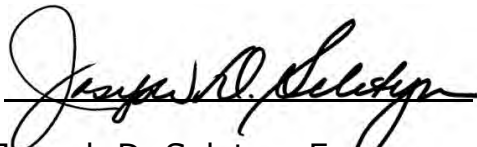
Pa.R.A.P. 2111 (a), (b).

We initially note that, “[w]hile this Court is willing to liberally construe materials filed by *pro se* litigants, . . . Appellant is not entitled to any particular advantage because [he] lacks legal understanding.” ***Commonwealth v. Rivera***, 685 A.2d 1011, 1013 (Pa. Super. 1996). Except for attaching a copy of the PCRA court’s opinion denying his ***first*** PCRA petition, Appellant has failed to comply with the Rule 2111(a)

requirements. These inadequacies have hampered effective appellate review. Thus, we dismiss Appellant's appeal. **See Rivera**, 685 A.2d at 1103 (explaining that when issues are not properly raised and developed in briefs, and the briefs are wholly inadequate to present specific issues for review, this Court will not consider their merits); **see also Commonwealth v. Spuck**, 2014 PA Super 22, 2014 Pa. Super. LEXIS 33 (Pa. Super. 2014) (same).

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn". The signature is written in a cursive style with a horizontal line underneath it.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 4/22/2014