

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
GREGORY GRAHAM,	:	
	:	
Appellant	:	No. 2866 EDA 2013

Appeal from the PCRA Order September 30, 2013,
Court of Common Pleas, Delaware County,
Criminal Division at No. CP-23-CR-0004271-2010

BEFORE: BOWES, DONOHUE and MUNDY, JJ.

JUDGMENT ORDER BY DONOHUE, J.:

FILED JULY 22, 2014

Gregory Graham (“Graham”) appeals from the September 30, 2013 order entered by the Delaware County Court of Common Pleas dismissing his petition filed pursuant to the Post Conviction Relief Act, 42 Pa.C.S.A. §§ 9541-9546 (“PCRA”). Specifically, he asserts that the PCRA court erred by failing to address the issues raised in his *pro se* response to the PCRA court’s notice of its intention to dismiss his PCRA without a hearing and by failing to hold a hearing pursuant to ***Commonwealth v. Grazier***, 713 A.2d 81 (Pa. 1998), following his timely *pro se* request to represent himself and raising PCRA counsel’s ineffectiveness. Graham’s Brief at 4. Both the trial court and the Commonwealth agree that the case must be remanded for the PCRA court’s consideration of both filings. **See** PCRA Court Opinion, 1/7/14, at 1-2; Commonwealth’s Brief at 8.

Our review of the record confirms that on July 16, 2013, the PCRA court filed a notice pursuant to Rule of Criminal Procedure 907 indicating its intention to dismiss the PCRA petition without a hearing (“Rule 907 Notice”) and provided Graham 20 days to respond. **See** Rule 907 Notice, 7/16/13, at 3. On July 30, 2013, Graham filed a *pro se* objection to the PCRA court’s Rule 907 Notice. On August 22, 2013, Graham filed a motion for a **Grazier** hearing, requesting to represent himself. Without ruling on either *pro se* filing, on September 30, 2013, the PCRA court dismissed Graham’s PCRA petition without a hearing and granted counsel permission to withdraw.¹ PCRA Court Order, 9/30/13.

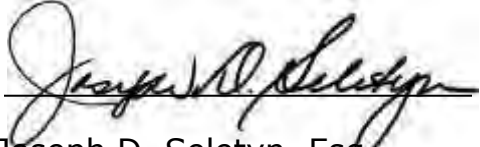
Based on the agreement of the parties and the PCRA court and our review record before us, we remand the case for the PCRA court’s consideration of Graham’s *pro se* filings. As the PCRA court’s order on Graham’s objections to its Rule 907 Notice would constitute a newly appealable order, we relinquish jurisdiction.

Case remanded. Jurisdiction relinquished.

¹ Appointed counsel had filed a **Turner/Finley** “no merit” letter seeking to withdraw. In its written opinion, the PCRA court explains that it did not rule upon either of Graham’s *pro se* motions because “the clerk did not transmit these filings to the [trial c]ourt,” and it did not receive a courtesy copy from Graham, and thus was unaware of their existence. Trial Court Opinion, 1/7/14.

J-S41023-14

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: 7/22/2014