

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
RONALD ANDREW KESSELRING,	:	
	:	
Appellant	:	No. 1102 MDA 2017

Appeal from the Judgment of Sentence June 13, 2017
in the Court of Common Pleas of Adams County,
Criminal Division at No(s): CP-01-CR-000196-2011

BEFORE: GANTMAN, P.J., MURRAY, J., and MUSMANNO, J.

JUDGMENT ORDER BY MUSMANNO, J.: **FILED MARCH 15, 2018**

Ronald Andrew Kesselring (“Kesselring”) appeals from the judgment of sentence imposed following the revocation of his probation. Sean A. Mott, Esquire (“Attorney Mott”), Kesselring’s appellate counsel, has filed a brief pursuant to **Anders v. California**, 386 U.S. 738, 744 (1967). However, Attorney Mott has not filed a separate petition to withdraw with this Court. Thus, we remand with instructions to Attorney Mott to either file an advocate’s brief or fulfill all of the requirements of **Anders**.

Pursuant to **Anders**, when counsel believes that an appeal is frivolous and wishes to withdraw from representation, he must do the following:

- (1) petition the court for leave to withdraw stating that after making a conscientious examination of the record and interviewing the defendant, counsel has determined the appeal would be frivolous, (2) file a brief referring to any issues in the record of arguable merit, and (3) furnish a copy of the brief to defendant and advise him of his right to retain new counsel or to

raise any additional points that he deems worthy of the court's attention.

Commonwealth v. Burwell, 42 A.3d 1077, 1083 (Pa. Super. 2012) (citations omitted); **see also Commonwealth v. Santiago**, 978 A.2d 349, 361 (Pa. 2009) (addressing the requisite contents of an **Anders** brief).

Here, Kesselring's counsel, Attorney Mott, has filed an **Anders** brief, as the brief cites to **Anders** and concludes that the discretionary aspects of sentencing challenge raised by Kesselring is frivolous. **See Anders** Brief at 8, 13-14. Despite citing to **Anders** in his brief, Attorney Mott did not file a petition to withdraw as counsel with this Court. **See Burwell, supra**. Accordingly, since Attorney Mott failed to either file a proper advocate's brief or fulfill the requirements set forth in **Anders**, we cannot address Kesselring's appeal.

Based upon the foregoing, we must remand the case for Attorney Mott to either file an advocate's brief or fulfill all of the requirements of **Anders** within thirty days of the filing of this Order. The Commonwealth shall have thirty days thereafter to file a responsive brief.

Case remanded with instructions. Panel jurisdiction retained.