

On August 18, 2025, Appellant, represented by Attorney Ryan Mergl, Esq., entered a plea of *nolo contendere* to one count of indecent assault and one count of witness intimidation. All remaining charges were *nol prossed*. During the plea colloquy, the Commonwealth relied on the following facts as the basis for Appellant's plea:

If this case were to proceed to trial, the Commonwealth would call Z.F., the minor victim, and Detective Ryan Chmura . . . [of] the Sharon Police Department. They would testify that between 2017 and May 16th of 2024, Mr. Radney did cause Z.F. to have indecent contact with him without her consent. . . . Detective Ryan Chmura . . . would [also] testify that[,] on May 30th or June 1st of 2024 Mr. Radney did make a phone call from the Mercer County Jail to the minor victim, Z.F., telling her that [she] better tell [her] mom to drop the charges or [her mom is] going to jail.

N.T., 8/18/25, at 12-13.

Appellant's plea agreement included a negotiated sentence of four to eight years' incarceration, followed by a 15-year registration requirement under the Sex Offender Registration and Notification Act, 42 Pa. C.S.A. §§ 9799.11-9799.42. N.T., 11/25/25, at 16. At the commencement of the sentencing hearing on November 25, 2025, Attorney Mergl made an oral motion to withdraw Appellant's guilty plea, wherein Appellant forwarded a bald claim of innocence as grounds for withdrawal. ***Id.*** at 8. The trial court denied that motion before imposing sentence. ***Id.*** at 13. The trial court then sentenced Appellant in accordance with his negotiated plea. ***Id.*** at 17.

On January 12, 2026, the trial court received *pro se* correspondence from Appellant¹ requesting the removal of Attorney Mergl and the appointment of a public defender. Appellant also requested reinstatement of his right to a direct appeal. Pursuant to this correspondence, on January 15, 2026, the trial court removed Attorney Mergl and appointed Attorney Johnson from the Office of the Public Defender. The court also reinstated Appellant's direct appeal rights. On February 17, 2026, Appellant, through *pro se* correspondence, once again requested an opportunity to challenge his conviction. The Court again reinstated Appellant's direct appeal rights. This appeal followed.

Attorney Johnson filed a timely notice of appeal on February 19, 2026. On March 31, 2026, she filed a concise statement of errors complained of on appeal under Pa.R.A.P. § 1925(b). The trial court issued its Rule 1925(a) opinion on April 17, 2026. Before this Court, Attorney Johnson has filed a petition for permission to withdraw as counsel and an accompanying ***Anders*** brief. The single issue raised on appeal is whether Appellant's sentence is manifestly excessive in length because it is not tailored to the nature of the

¹ The trial court properly considered Appellant's *pro se* correspondence to be a petition under the Post-Conviction Relief Act, as will this Court in the present appeal. 42 Pa. C.S.A. §§ 9541-9546. ***See Commonwealth v. Jimenez***, 248 A.3d 460 (Pa. Super. 2021) (unpublished memorandum) at 1 (noting trial court's treatment of *pro se* correspondence as a PCRA petition); ***see also Commonwealth v. Jones***, 268 A.3d 442 (Pa. Super. 2021) (unpublished memorandum) at 3.

offense, the ends of justice and society, or the defendant's rehabilitative needs.

Before reaching the merits of Appellant's appeal, we first review counsel's petition to withdraw. ***Commonwealth v. Thompson***, 333 A.3d 461, 466 (Pa. Super. 2025), *citing* ***Commonwealth v. Wimbush***, 951 A.2d 379, 382 (Pa. Super. 2008) (further citation omitted). In order to withdraw pursuant to ***Anders***, counsel's brief must include: 1) a summary of the procedural history and facts with citations to the record; 2) references to anything in the record that counsel believes supports the appeal; 3) counsel's conclusion that the appeal is frivolous; and 4) counsel's reasons for that conclusion, including relevant facts of record, controlling case law, and statutes on point. ***Santiago***, 978 A.2d at 361.

Additionally, counsel must provide Appellant with a copy of the ***Anders*** brief. ***Commonwealth v. Blango***, 327 A.3d 670, 675 (Pa. Super. 2024), *citing* ***Commonwealth v. Cartrette***, 83 A.3d 1030, 1032 (Pa. Super. 2013) (*en banc*) (further citation omitted). The brief must be accompanied by a letter advising the client of his or her immediate right to new counsel, to proceed *pro se*, or to raise any additional points he or she may deem worthy of this Court's attention. ***Blango***, 327 A.3d at 675, *citing* ***Cartrette***, 83 A.3d 1032; ***Commonwealth v. Orellana***, 86 A.3d 877, 880 (Pa. Super. 2014). A copy of this letter must be attached to counsel's petition for leave to

withdraw. See **Blango**, 327 A.3d at 675, citing **Commonwealth v. Millisock**, 873 A.2d 748, 752 (Pa. Super. 2005).

“Once counsel has satisfied the above requirements, it is then this Court's duty to conduct its own review of the trial court's proceedings and render an independent judgment as to whether the appeal is, in fact, wholly frivolous.” **Commonwealth v. Goodwin**, 928 A.2d 287, 291 (Pa. Super. 2007) (*en banc*) (citation and internal quotation marks omitted).

The record shows that Attorney Johnson has satisfied the foregoing technical requirements. Accordingly, we proceed to conduct an independent review of the record to determine whether the appeal is wholly frivolous. **See id.** at 291. The single issue raised by Appellant is whether his sentence is manifestly excessive because it is not tailored to the nature of the offense, the ends of justice and society, or the defendant's rehabilitative needs.

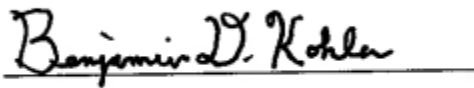
This challenge, however, goes to the discretionary aspects of Appellant's sentence. **Commonwealth v. Reid**, 117 A.3d 777, 784 (Pa. Super. 2015), citing **Commonwealth v. O'Malley**, 957 A.2d 1265, 1267 (Pa. Super. 2008); **Thompson**, 333 A.3d at 467. Pennsylvania precedent holds that the discretionary aspects of a negotiated sentence entered after the acceptance of a plea agreement cannot be challenged on appeal. **Reid**, 117 A.3d at 784, citing **O'Malley**, 957 A.2d at 1267; **Thompson**, 333 A.3d at 467. The record makes clear that Appellant entered a knowing, voluntary, and intelligent plea of *nolo contendere* and agreed to a negotiated sentence. Under these

circumstances, Appellant may not challenge the discretionary aspects of his negotiated sentence. **See Reid**, 117 A.3d at 784 (claim that sentence was manifestly excessive was unreviewable where appellant agreed to negotiated sentence after entry of a valid guilty plea). Hence, Appellant's claim is wholly frivolous.

We have considered the issue raised within the **Anders** brief and we have determined that the claim is wholly frivolous. In addition, after an independent review of the entire record, we see nothing that might arguably support this appeal. Accordingly, we grant counsel's petition for leave to withdraw and affirm Appellant's judgment of sentence.

Petition for leave to withdraw appearance granted. Judgment of sentence affirmed. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

9/22/2026

