NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
JESUS AGUILAR-LEDESMA	:	
Appellant	:	No. 3308 EDA 2025

Appeal from the Judgment of Sentence Entered December 4, 2025
In the Court of Common Pleas of Chester County Criminal Division at
No(s): CP-15-CR-0000596-2023

BEFORE: LAZARUS, P.J., PANELLA, P.J.E., and STEVENS, P.J.E.*

MEMORANDUM BY PANELLA, P.J.E.: **FILED NOVEMBER 5, 2026**

Jesus Aguilar-Ledesma ("Appellant") appeals from the judgment of sentence entered in the Court of Common Pleas of Chester County following his conviction of attempted murder, aggravated assault, firearms not to be carried without a license, possessing instruments of crime, recklessly endangering another person, and simple assault.[1] Furthermore, appellate counsel seeks to withdraw from representation pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and ***Commonwealth v. Santiago***, 978 A.2d 349 (Pa. 2009). Because counsel failed to provide all transcripts

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* Former Justice specially assigned to the Superior Court.

[1] 18 Pa.C.S.A. §§ 901(a), 2702(a)(1), (4), 6106(a)(1), 907(a), (b), 2705, and 2701(a)(1), respectively.

necessary for our independent review of the entire record, we deny counsel's application to withdraw and remand with instructions.

Appellant was convicted of the above offenses following a five-day jury trial. On May 2, 2025, the court sentenced Appellant to serve an aggregate term of 23 to 46 years' incarceration. On that same date, the court entered an order deferring Appellant's restitution hearing.[2] On May 12, 2025, Appellant filed a post-sentence motion in which he generally averred that: (1) the trial court abused its discretion in imposing an aggregate sentence of 23 to 46 years' incarceration; (2) the Commonwealth's evidence was insufficient to sustain his convictions; and (3) the jury's verdict was against the weight of the evidence. ***See*** Motion for Post-Sentence Relief, 5/12/25, at ¶¶ 3-6.

On June 3, 2025, without holding an additional hearing, the court entered an amended sentencing order to include Appellant's simple assault conviction, which was omitted from its original sentencing order.[3] On July 11,

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[2] Appellant's restitution hearing originally was scheduled to take place on June 11, 2025, but was eventually held on December 3, 2025, following multiple continuance requests.

[3] The docket does not reflect that Appellant personally received notice of the entry of the amended sentencing order, and it appears that it was entered outside of his presence. While we acknowledge that the trial court may have entered an illegal sentence by amending Appellant's sentence outside of his presence, ***see Commonwealth v. Mumford***, 353 A.3d 247, 261 (Pa. Super. 2026), we decline to address the legality of Appellant's amended sentence at this juncture given our disposition. However, both counsel and the trial court are directed to address the legality of the June 3, 2025 amended sentencing order in any subsequent briefs or opinions pertaining to this appeal.

2025, the court denied Appellant's request for post-sentence relief and dismissed his post-sentence motion. Appellant filed a notice of appeal from his judgment of sentence at 2110 EDA 2025, which this Court quashed as interlocutory on November 21, 2025, in light of Appellant's bifurcated sentencing proceedings.[4]

The court held a restitution hearing on December 3, 2025. The following day, the court entered an order imposing restitution in the amount of $6,422.22 to be paid to the victim in which it indicated that the order of restitution was "incorporated into the sentence pronounced in part on May 2, 2025, and amended by order on June 3, 2025." Restitution Order, 12/4/25.[5] Appellant timely filed a notice of appeal and a court-ordered concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). In response, the trial court filed a statement in lieu of filing an opinion, pursuant to

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[4] Where the record demonstrates that the parties intended to proceed with a bifurcated sentencing proceeding such that the parties agreed, at the initial sentencing hearing, to a future restitution hearing, the court's initial sentencing order is interlocutory in nature and unappealable, as sentencing is incomplete upon entry of the initial sentencing order. ***See Commonwealth v. Rapp***, 331 A.3d 17, 23-24 (Pa. Super. 2025). Accordingly, in a bifurcated sentencing proceeding, the defendant's judgment of sentence is finalized upon entry of the court's final order of restitution, from which the defendant may properly appeal. ***See Commonwealth v. Agugliaro***, 342 A.3d 105, 112 (Pa. Super. 2025).

[5] Appellant's judgment of sentence was finalized upon entry of the court's restitution order on December 4, 2025, and his appeal properly lies from that order. ***See Agugliaro***, 342 A.3d at 112. We have updated the case caption accordingly.

Pa.R.A.P. 1925(a), on April 23, 2026. On July 7, 2026, Scott J. Werner Jr., Esq. filed a petition to withdraw from representation and an accompanying ***Anders*** brief. On August 10, 2026, Appellant filed an untimely *pro se* response to counsel's ***Anders*** brief.[6]

Appellant's Rule 1925(b) statement challenges the sufficiency and weight of the evidence, as well as the trial court's ruling on his Rule 600 motion. ***See*** Appellant's Rule 1925(b) Statement, at 1-2. In his ***Anders*** brief, counsel contends there are no nonfrivolous issues to be raised on Appellant's behalf that would support his direct appeal. ***See Anders*** Brief, at 7.

Prior to reviewing the merits of the appeal, we must first determine whether counsel has complied with the requirements set forth in ***Anders*** and its progeny.

> To withdraw from representation pursuant to ***Anders***, counsel must:
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> > 1) petition the court for leave to withdraw stating that, after making a conscientious examination of the record, counsel has determined that the appeal would be frivolous; 2) furnish a copy of the ***Anders*** brief to the appellant; and 3) advise the appellant that he or she has the right to retain private counsel or raise additional arguments that the appellant deems worthy of the court's attention.

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[6] In his response, Appellant raises multiple claims concerning the ineffective assistance of counsel. Generally, "ineffectiveness claims are not to be raised in the first instance on direct appeal but must await collateral review." ***Commonwealth v. Alameda***, 339 A.3d 504, 511 (Pa. Super. 2025) (citation omitted). Thus, to the extent Appellant challenges counsel's stewardship in his response to counsel's ***Anders*** brief, his claims are premature and must await collateral review. ***See id.***

> With respect to the third requirement of ***Anders***, that counsel inform the appellant of his or her rights in light of counsel's withdrawal, this Court has held that counsel must attach to their petition to withdraw a copy of the letter sent to their client advising him or her of their rights.
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> Further, an ***Anders*** brief must comply with the following requirements:
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> > (1) provide a summary of the procedural history and facts, with citations to the record; (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.
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> If counsel's petition and brief satisfy ***Anders***, we will then undertake our own review of the appeal to determine if it is wholly frivolous.

Commonwealth v. Steager, 357 A.3d 137, 142-43 (Pa. Super. 2026) (brackets and citation omitted). "This includes an independent review of the record to discern if there are any additional, non-frivolous issues overlooked by counsel." ***Commonwealth v. Thompson***, 333 A.3d 461, 466 (Pa. Super. 2025) (internal quotation marks and citations omitted).

In his petition to withdraw, counsel indicates that he reviewed the entire record and determined that there are no non-frivolous grounds for an appeal. However, the certified record before us does not contain the transcript from

Appellant's December 3, 2025 restitution hearing.[7] "An attorney cannot satisfy the mandates of ***Anders*** when he fails to procure transcripts for dispositive proceedings." ***Commonwealth v. Williams***, 358 A.3d 627, 2026 WL 673250 at *2 (Pa. Super. filed Mar. 10, 2026) (unpublished memorandum) (citing ***Commonwealth v. Flowers***, 113 A.3d 1246, 1250 (Pa. Super. 2015)).[8] Furthermore, "[w]hen the record is incomplete, we can neither confirm that counsel complied with the duty to conscientiously examine the record, nor conduct our own review to confirm the frivolity of the appeal." ***Commonwealth v. Stroud***, 298 A.3d 1152, 1158 (Pa. Super. 2023) (citation omitted). Without the transcripts from Appellant's restitution hearing, counsel could not have assessed whether any non-frivolous issues relating to Appellant's bifurcated sentencing proceedings exist, and we likewise are precluded from determining whether the appeal is wholly frivolous. Because it is an appellant's burden to ensure that the certified record is complete, we direct counsel to supplement the certified record with the missing transcript pursuant to Pa.R.A.P. 1926(b). ***See Commonwealth v. Falcey***, 310 A.3d 313, 316 (Pa. Super. 2024).

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[7] We note that we made an informal inquiry to the trial court requesting the missing transcript, which was ultimately unsuccessful.

[8] We may rely upon the non-precedential memorandum decisions of this Court filed after May 1, 2019 for their persuasive value. ***See*** Pa.R.A.P. 126(b).

Accordingly, we deny counsel's petition to withdraw and remand with instructions for counsel to obtain the notes of testimony from Appellant's restitution hearing held on December 3, 2025 and to ensure that this transcript is made part of the certified record no later than thirty days after the filing of this Memorandum. Additionally, upon conducting a thorough examination of the complete certified record, counsel shall file either a petition to withdraw and an ***Anders*** brief or an advocate's brief within thirty days of this filing.

Application to withdraw denied. Case remanded with instructions. Panel jurisdiction retained.