

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION - LAW

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
Appellee	:	
	:	
v.	:	No. CR-422-2020
	:	
SIOBHAN T. CARRASSO,	:	
	:	
Appellant	:	

Brian B. Gazo, Esquire
Assistant District Attorney

Counsel for Appellee

Alexandria J. Crouthamel, Esquire Counsel for Appellant

MEMORANDUM OPINION

Serfass, J. - October 27, 2021

Siobhan T. Carrasso (hereinafter "the Appellant") appeals from this Court's Order of November 5, 2020, pursuant to which she was convicted of one count of use/possession of drug paraphernalia. We file the following Memorandum Opinion in accordance with Pa.R.A.P. 1925(a) and respectfully recommend that the instant appeal be denied and that our Order of November 5, 2020 be affirmed.

FACTUAL AND PROCEDURAL HISTORY

Appellant executed written waivers of her right to a jury trial and her right to counsel following an on-the-record explanation of those rights during which we ascertained that Appellant's waiver was knowing, voluntary and intelligent, as required by Pa.R.Crim.P. 121(c).

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Thereafter, Appellant represented herself at a bench trial before the undersigned on October 2, 2020. On that same date, she was found guilty of one count of Use/Possession of Drug Paraphernalia (35 Pa.C.S.A. §780-113 §§(a)(32)). Appellant was sentenced to twelve (12) months county probation on November 5, 2020. Immediately following sentencing, she expressed a desire to appeal her conviction and sentence. She completed an application with the Carbon County Public Defender's Office on November 6, 2020 and was deemed eligible for the appointment of counsel. On November 6, 2020, then-First Assistant Public Defender Paul J. Levy, Esquire was appointed to represent Appellant and Attorney Levy's entry of appearance was filed with the Carbon County Clerk of Courts' Office on that same date. However, due to confusion in the Public Defenders' Office concerning the status of Appellant's case, her application was not forwarded to Attorney Levy.

On or about November 12, 2020, then-Chief Public Defender Gregory L. Mousseau, Esquire filled a "Petition for Appointment of Counsel" based on a conflict in the Office of the Public Defender as Attorney Levy had previously been appointed to represent a defendant on a pending case in which Appellant was an alleged victim. For unknown reasons, the "Petition for Appointment of Counsel" was not forwarded to the Court for consideration until mid-January 2021. On January 15, 2021, after Appellant's appeal

period had lapsed, Alexandria J. Crouthamel, Esquire was appointed as conflict counsel to represent Appellant.

Attorney Crouthamel filed a Post-Conviction Collateral Relief Petition on February 23, 2021 and a PCRA hearing, at which Attorney Levy and Jennifer Ketchledge, legal secretary in the Public Defender's Office, appeared and testified, was held before the undersigned on June 28, 2021. A post-hearing brief was submitted by Attorney Levy on or about July 13, 2021. On September 15, 2021, we granted Appellant's PCRA petition, restored her appellate rights and directed that her appeal be filed within thirty (30) days.

On September 24, 2021, Appellant filed an Appeal to the Superior Court of Pennsylvania requesting review and reversal of this Court's November 5, 2020 Order. On September 27, 2021, we entered an order directing Appellant to file a concise statement of matters complained of on appeal pursuant to Pa.R.A.P. 1925(b). On October 18, 2021, Attorney Crouthamel filed a "Statement of Intent to File Anders/McClendon Brief" pursuant to Pa.R.A.P. 1925(c)(4) indicating her intent to withdraw as counsel based on her belief that the instant appeal is frivolous.

DISCUSSION

We first note that Pa.R.A.P. 1925(c)(4) allows appellant's counsel to file and serve on the trial court a statement of intent to file an Anders/Santiago brief in lieu of a concise statement.

Pa.R.A.P. 1925(c)(4). We also note that "[i]f counsel files a statement of intent to file an *Anders/McClendon* brief pursuant to Rule 1925(c)(4), a trial court opinion is not necessary and the trial court record shall be certified and transmitted back to [the appellate court]." *Commonwealth v. McBride*, 957 A.2d 752, 758 (Pa.Super. 2008). Therefore, due to the filing of counsel's "Statement of Intent to File *Anders/McClendon* Brief" pursuant to Pa.R.A.P. 1925(c)(4) in lieu of a Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b), we remain uncertain as to the basis of the instant appeal.

CONCLUSION

Based upon the foregoing, we recommend that the instant appeal be denied and that our Order of November 5, 2020 be affirmed accordingly. However, if the Honorable Superior Court believes that there are arguably meritorious issues for appellate review following consideration of counsel's *Anders/Santiago* brief, we respectfully request that this Court be afforded the opportunity to file a supplemental opinion which addresses those issues.

BY THE COURT:

A handwritten signature in black ink, appearing to read "S.R. Serfass", written over a horizontal line.

Steven R. Serfass, J.