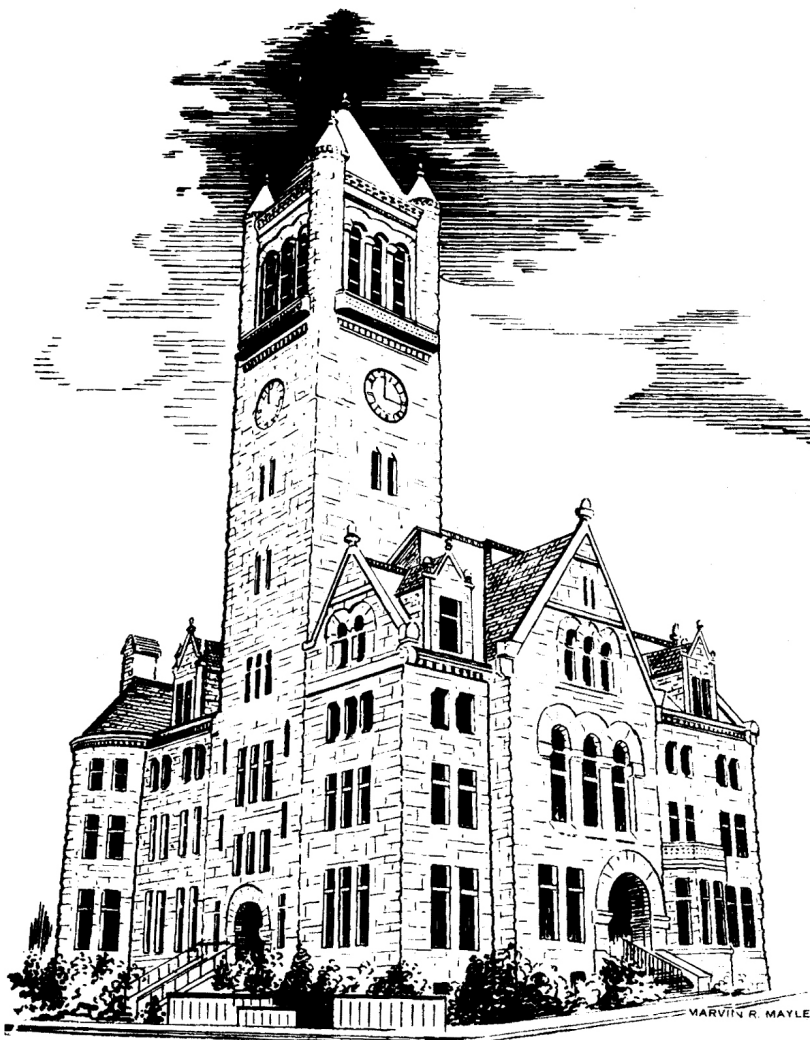


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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

AUDREY ARISON, a/k/a AUDREY J. ARISON, late of Dunbar Township, Fayette County, PA (3)

Co-Executors: Denise L. Arison and Vicki A. Arison
c/o P.O. Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

BONITA L. GIBON, late of Franklin Township, Fayette County, PA (3)

Personal Representatives:
Kimberly A. Johnson and Shelley J. Gibson
c/o 206 Derrick Avenue
Uniontown, PA 15401
Attorney: Gary N. Altman

ALICE GREEN, a/k/a ALICE JANE GREEN, late of Bullskin Township, Fayette County, PA (3)

Executor: Larry E. Green
923 Maple Avenue
Pittsburgh, PA 15234
c/o 508 Washington Road
Pittsburgh, PA 15228
Attorney: Daniel J. Conway

LOIS STILLWAGON GUTHRIE, a/k/a LOIS L. GUTHRIE, late of Nicholson Township, Fayette County, PA (3)

Executor: John Mike Guthrie
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401

CARL E. KIMMEL, JR., a/k/a CARL EDWARD KIMMEL, JR. late of South Connellsville, Fayette County, PA (3)

Personal Representative: Gary Lee Kimmel
c/o Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Charles W. Watson

HELEN MARIE WILDEY A/K/A HELEN M. WILDEY, late of Lower Tyrone Township, Fayette County, PA (3)

Executor: Michael L. Wildey
P.O. Box 760
Connellsville PA 15425
Attorney: Carolyn W. Maricondi

FRANK W. ZEMBAR, late of Wharton Township, Fayette County, PA (3)

Executrix: Mary V. Herring
366 Wharton Furnace Road
Farmington, PA 15437
c/o 114 East Union Street
P.O. Box 7
Somerset, PA 15501
Attorney: William T. Cline

Second Publication

JAMES K. ALBRIGHT, a/k/a JAMES KEVIN ALBRIGHT, late of Dunbar Township, Fayette County, PA (2)

Administratrix: Tina M. Dull
P.O. Box 203
Leisenring, PA 15455
c/o Tremba, Kinney, Greiner & Kerr, LLC
120 South Third Street
Connellsville, PA 15425
Attorney: John K. Greiner

JANET R. BIGHAM, late of Springfield Township, Fayette County, PA (2)

Co-Executors: Debra Rakushin and Janice Taylor-Condo
c/o Tremba, Kinney, Greiner & Kerr, LLC
120 South Third Street
Connellsville, PA 15425
Attorney: Nicole M. LaPresata

JOYLYNN ELLIS, a/k/a JOY LYNN ELLIS,

Uniontown, Fayette County, PA (2)

Personal Representative: Lea Rae Walls
 c/o Davis & Davis Law Offices
 107 East Main Street
 Uniontown, PA 15401
Attorney: Gary J. Frankhouser

THOMAS D. HEFFNER, late of South
Connellsville, Fayette County, PA (2)

Administrator: Dennis R. Heffner
 c/o Molinaro Law Offices
 P.O. Box 799
 Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

**JOSEPH L. HORVATH, SR, a/k/a JOSEPH
LEWIS HORVATH, SR., a/k/a JOSEPH
HORVATH, SR., a/k/a JOSEPH L.****HORVATH**, late of North Union Township,
Fayette County, PA (2)

Co-Executors: Vincent Horvath and
 Joyce Stillwagon
 c/o 9 Court Street
 Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

ETHEL MARIE MARTIN, late of Uniontown,
Fayette County, PA (2)

Executrix: Dail Anguiano
 c/o 11 Pittsburgh Street
 Uniontown, PA 15401
Attorney: Thomas W. Shaffer

MICHAEL H. PRESTIA, late of Connellsville,
Fayette County, PA (2)

Executor: Paul F. Prestia
 c/o Molinaro Law Offices
 P.O. Box 799
 Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

PAULINE C. ROSE, late of Dunbar Township,
Fayette County, PA (2)

Co-Executors: Paula A. Childs and
 Patricia J. Miller
 c/o P.O. Box 760
 Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

HELEN E. SERWINSKI, late of Wharton
Township, Fayette County, PA (2)

Executor: Jonathan Adams
 c/o Hajduk & Associates
 77 South Gallatin Avenue
 P.O. Box 1206
 Uniontown, PA 15401-1206
Attorney: Mary Lenora Hajduk

WILLIAM A. THURBY, JR., late of South
Union Township, Fayette County, PA (2)

Personal Representative:
 Kathy Thurby-Hazelton
 c/o George, Port & George
 92 East Main Street
 Uniontown, PA 15401
Attorney: Joseph M. George

First Publication**ROBERTA LEE BERGER**, late of North
Union Township, Fayette County, PA (1)

Executor: Steven Walton
 301 Old Route 51
 Smock, Pa 15480
 c/o 189 Dearth Road
 Uniontown, PA 15401
Attorney: Steven Walton

RONALD E. CORNISH, late of Luzerne
Township, Fayette County, PA (1)

Executor: Joshua Cornish
 c/o Monaghan & Monaghan
 57 East Main Street
 Uniontown, PA 15401
Attorney: Gary D. Monaghan

**EUGENE R. ROTONTO, a/k/a EUGENE
ROTONTO**, late of Markleysburg, Fayette
County, PA (1)

Executor: Warren Dale Leonard
 c/o 2944 National Pike Road
 Box 245
 Chalk Hill, PA 15421
Attorney: Charles C. Gentile

DOROTHY SANDS, late of Washington Township, Fayette County, PA (1)
Executrix: Mary Bednarczyk
 1363 Connellsville Road
 Fayette City, PA 15438
 c/o 823 Broad Avenue
 Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

JOSEPH H. WEISMAN, JR., a/k/a JOSEPH WEISMAN, JR., late of Perryopolis, Fayette County, PA (1)
Executor: Paul S. Bilohlavek
 c/o Adams & Adams
 55 East Church Street, Suite 101
 Uniontown, PA 15401
Attorney: Jason F. Adams

LEGAL NOTICES

NOTICE OF ACTION IN MORTGAGE FORECLOSURE

Brett A. Solomon, Esquire Pa. I.D. #83746
 Michael C. Mazack, Esquire Pa. I.D. #205742
 Tucker Arensberg, P.C. 1500 One PPG Place
 Pittsburgh, PA 15222
 412-566-1212

Attorneys for PNC Bank, National Association,
 Successor by Merger to National City Bank,
 Plaintiff

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY, PENNSYLVANIA
 1732 of 2017 GD

**PNC BANK, NATIONAL ASSOCIATION,
 SUCCESSOR BY MERGER TO
 NATIONAL CITY BANK, Plaintiff,**
 vs.
**WILLIAM G. AND BETTY J. TOKISH
 FAMILY TRUST AND ALL UNKNOWN
 SUCCESSOR TRUSTEES,**
Defendants

TO: WILLIAM G. AND BETTY J. TOKISH
 FAMILY TRUST, AND ALL UNKNOWN
 SUCCESSOR TRUSTEES, Defendants

You are hereby notified that on August 11, 2017, PNC Bank, National Association filed a Complaint in Action of Mortgage Foreclosure, endorsed with a Notice to Defend, against the above Defendants at the above number.

Property Subject to Foreclosure: 838 Main Street, McClellandtown, PA 15458

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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 Fayette County Bar Association
 Courthouse, 2nd Floor
 Uniontown, PA 15401
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Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and
Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Tuesday, January 2, 2018
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0718	IRENE A. SMITH	Diane Patterson, Executrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Tuesday, January 16, 2018 at 9:30 A.M.

in Court Room No. 1 of the Honorable STEVE P. LESKINEN, or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

Notice is also hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Tuesday, January 2, 2018
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2616-0451	YOLANDA K. PALLOW	Michael E. Pallow, Executor
2616-0665	GLEN R. HENSEL	Robin Donaldson, Executrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Tuesday, January 16, 2018 at 9:30 A.M.

in Court Room No. 2 of the Honorable JOHN F. WAGNER or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JEFFREY L. REDMAN
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (2 of 2)

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
VS.	:	
JAMES STEVENSON,	:	No. 218 of 2015
Defendant.	:	HONORABLE GERALD R. SOLOMON

OPINION, FINDINGS OF FACT, DISCUSSION AND ORDER

SOLOMON, SJ

November 17, 2017

Before the Court is the Amended Post-Conviction Relief Act Petition of James Stevenson, Defendant. In his Petition, Defendant raises three issues of Ineffectiveness of Counsel (IEC): Failure to File a Petition for Allowance of Appeal; Failure to Call a Witness; and Failure to Communicate with Client. Record

After two continuances were granted Defendant, a hearing on the Petition was held on August 16, 2017. Record. At the conclusion of the hearing, Counsel for Defendant requested that the record be kept open to see if she could find anyone to support the defendant's contention that he had an alibi. N.T., 8/16/2017 at 67. Over objection, the Court stated it would keep the record open for a period of two weeks, although it was actually kept open for a longer period. Id. at 67-68. When no further request came from counsel, the record was closed.

FINDINGS OF FACT

1. Robert Harper, Esquire, who was trial counsel for Defendant, met with Defendant several times over a period of several months prior to Defendant's trial which was scheduled for January, 2016. N.T., 8/16/17, at 7.

2. Harper also met with Defendant numerous times at the Fayette County jail prior to trial during which trial theories and defendant's defenses were discussed. Id.8-9.

3. During the preparation for trial, Defendant gave Harper the names of Leslie Brashear, Sarah Smith and Jason Stevenson, who were alibi witnesses he wanted called. Id.at 9.

4. When Harper spoke with Brashear, she told him that she was with Defendant, and that the incident as alleged by the Commonwealth had in fact occurred. Id. at 9-10.

5. Harper and Defendant decided not to call Brashear. Id. at 10.

6. Harper also spoke with Smith who told him that she had no involvement in the case and could not provide an alibi. Id. at 10-11.

7. As with Brashear, Harper and Defendant decided not to call Smith. Id. at 11.

8. The third alleged alibi witness given to Harper was Jason Stevenson, the brother of Defendant and, despite numerous attempts to contact him, Harper was never able to speak with him. Id.at 11-12.

9. At trial, Defendant testified about his three alibi witnesses, and about his alibi. Id.at 13-14.

10. Following trial Harper, after meeting with Defendant, filed a post-sentence motion and then an appeal to the Superior Court of Pennsylvania. Id.at 16.

11. After Defendant's appeal was denied, on August 4, 2016, a letter was sent to Defendant to determine if Defendant wanted to take a further appeal. Id.at 17.

12. In a letter dated August 30, 2016, Defendant requested his documents, transcripts and records and stated that he was going to proceed pro se. Id.at 18-19.

13. Defendant admitted that Harper told him that his brother never called him. Id.at 42.

14. Defendant admits he was in Pennsylvania on the day and time of this offense. Id.at 53.

15. Defendant's brother was not with him on January 4, 2015, the date of this offense, nor was Defendant's grandmother or daughter. Id.at 51.

16. Jason Stevenson failed to appear at the PCRA hearing which had been continued twice before since, for various reasons he failed to appear at those scheduled hearings, so that he could appear on the day the hearing was held. Id.at 60, 63-64.

17. The only PCRA witness listed in the Amended PCRA Petition is Jason Stevenson and that he would testify that Defendant was in Florida at the time of the incident. Id.at 60, 64; Record.

18. Although the record was kept open at the request of PCRA counsel, no further hearing was ever requested. Record.

19. The testimony of trial counsel, Robert Harper, was credible.

20. The testimony of Defendant was not credible.

DISCUSSION

When a defendant raises an issue of ineffective assistance of counsel, we review such claim according to the following test:

It is well-established that counsel is presumed effective, and the defendant bears the burden of proving ineffectiveness. To overcome this presumption, Appellant must satisfy a three-pronged test and demonstrate that: (1) the underlying substantive claim has arguable merit; (2) counsel whose effectiveness is being challenged did not have a reasonable basis for his or her actions or failure to act; and (3) the petitioner suffered prejudice as a result of counsel's deficient performance. A claim of ineffectiveness will be denied if the petitioner's evidence fails to meet any of these prongs.

Commonwealth v. Williams, 980 A.2d 510, 520 (Pa. 2009) (citations omitted), cert. denied, *Williams v. Pennsylvania*, 130 S.Ct. 3353 (U.S. 2010). If a defendant fails to prove by a preponderance of the evidence any of the prongs, the Court need not address the remaining prongs of the test. *Commonwealth v. Fitzgerald*, 979 A.2d 908, 911 (Pa. Super. 2009), appeal denied, 990 A.2d 727 (Pa. 2010). With this law to guide us, we

now address the three claims of Defendant.

Defendant first claims that counsel was ineffective by reason of his failure to file a Petition for Allowance of Appeal. At the PCRA hearing, counsel testified that after Defendant's appeal to the Superior Court of Pennsylvania was denied, a letter was sent to Defendant to determine if he wanted to take a further appeal. N.T.,8/16/17, at 17. Twenty-six days later, in a letter dated August 30, 2016, Defendant requested his documents, transcripts and records and stated that he was going to proceed, pro se. Id. at 18-19. In this regard, at the PCRA hearing, Defendant testified that he did write that letter to counsel. Id. at 44. Thus, this claim lacks arguable merit and, since it fails to meet the first prong of the test, this claim of ineffectiveness must be denied. *Commonwealth v. Williams*, supra, *Williams v. Pennsylvania*, supra.

The second claim of Defendant is that counsel was ineffective for failure to call a witness. The witness at issue, according to Defendant, is his brother, Jason Stevenson, an alleged alibi witness. PCRA petition. As to this witness, counsel testified that despite numerous attempts to Jason Stevenson, he was never able to speak with him. N.T.,8/16/17, at 11-12. We would also note that the witness, Jason Stevenson, failed to appear at two scheduled PCRA hearings, each of which were continued since, for various reasons, he failed to appear at those scheduled hearings. Id. at 60, 63-64. He also failed to appear at the time of the third and last scheduled hearing. Id.

A claim that counsel was ineffective for failure to call a potential witness to testify at trial requires petitioner to satisfy a four-pronged test by establishing "that the witness existed and was available, that counsel was informed of the witness' existence, that the witness was willing to testify and that the absence of the witness prejudiced the defendant to a point where the defendant was denied a fair trial. *Commonwealth v. Moser*, 921 A.2d 526, 531 (Pa. Super. 2007).

In his Amended PCRA petition at paragraph 16, Defendant claims that Jason Stevenson would have testified that Defendant was in Florida at the time of the incident. Record. Yet, at the PCRA hearing, Defendant testified under oath that he, the Defendant, was in Pennsylvania on the day and time of this offense, and not in Florida. N.T., 8/16/17, at 53.

The failure of the alleged brother of Defendant to respond to counsel and to appear at three scheduled PCRA hearings clearly indicates that he was not willing to testify. Hence, the claim of Defendant that counsel was ineffective for failure to call a witness is without merit and must be denied.

The last claim of Defendant is that counsel failed to communicate with him, alleging that counsel met with him only once prior to trial, and then only for ten or fifteen minutes. PCRA petition. By itself, the amount of time counsel "spends consulting with his client before trial is not a legitimate basis for inferring preparation, much less the adequacy of counsel's preparation"; however, face-to-face meetings are necessary for counsel to "inter alia, gather information from the client, evaluate the client's demeanor, and try to establish a working relationship." *Commonwealth v. Brooks*, 839 A.2d 245, 249 n. 7, 250 (Pa. 2003). Counsel is not deemed ineffective per se merely because of the

time he has met with his client. *Commonwealth v. Porter*, 728 A.2d 890, 896 (Pa. 2000).

At the PCRA hearing, counsel testified that he met with Defendant several times over a period of several months prior to Defendant's trial. N.T., 8/16/17, at 7. He further testified that he met with Defendant numerous times at the Fayette County jail prior to trial during which times trial theories and defendant's defenses were discussed. Id. at 8-9. The Court found counsel's testimony on this issue, as well as the two previous issues, to be credible, especially in light of Defendant's PCRA petition and his testimony. In his PCRA petition, Defendant alleges that counsel met with him "only one (1) time for ten (10) to fifteen (15) minutes prior to trial." PCRA petition, paragraph 24. However, under oath at the PCRA hearing, Defendant testified that counsel met with him "about two or three times." N.T., 8/16/17, at 37. In addition, Defendant admits he met with counsel for forty-five minutes in a courtroom. Id. at 38. As with his other issues, Defendant clearly demonstrates that he lacks credibility and that this claim lacks arguable merit and must be denied.

Wherefore, we will enter the following Order.

ORDER

AND NOW, this 16th day of February, 2017, after hearing, it is hereby ORDERED and DECREED that the Amended Post Conviction Relief Act Petition filed by James Stevenson, Defendant, is DENIED.

BY THE COURT,
GERALD R. SOLOMON
SENIOR JUDGE

ATTEST:
Clerk of Courts

NOTICE

The Court of Common Pleas of Fayette County is accepting applications for an attorney to serve as a Child Custody Mediator/Hearing Officer. The position is part-time requiring the attorney to work 37.5 hours in each two week pay period without benefits except for retirement and available health insurance coverage.

The position of Child Custody Mediator/Hearing Officer will comply with Pa.R.C.P. Section 1915.4-2. The Code of Conduct for Employees of the Unified Judicial System prohibits this attorney from representation in the Court of Common Pleas of Fayette County in any capacity, but would permit a private practice in other counties.

A letter of interest and resume should be directed to the Court Administrator and received by Friday, January 5, 2018, detailing salary and benefit requirements.

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