

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

ROBERT HOLLAND II

Appellant

: No. 156 MDA 2026

Appeal from the Judgment of Sentence Entered December 2, 2025
In the Court of Common Pleas of Lancaster County Criminal Division at
No(s): CP-36-CR-0005110-2023

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

ROBERT HOLLAND

Appellant

: No. 157 MDA 2026

Appeal from the Judgment of Sentence Entered December 2, 2025
In the Court of Common Pleas of Lancaster County Criminal Division at
No(s): CP-36-CR-0005016-2023

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v.

ROBERT HOLLAND II

Appellant

: No. 158 MDA 2026

Appeal from the Judgment of Sentence Entered December 2, 2025
In the Court of Common Pleas of Lancaster County
Criminal Division at No(s): CP-36-CR-0005101-2023

BEFORE: BOWES, J., OLSON, J., and KUNSELMAN, J.

OPINION BY BOWES, J.:

FILED OCTOBER 22, 2026

Robert Holland, II, appeals from the aggregate judgment of sentence of three to ten years of imprisonment imposed upon his guilty pleas to various theft-related offenses in the above-captioned cases.¹ Also before us is a petition to withdraw and a brief pursuant to ***Anders v. California***, 386 U.S. 738 (1967), filed by Kristen L. Weisenberger, Esquire ("***Anders*** Counsel"). Since we conclude that ***Anders*** Counsel failed to comply with the mandates of ***Anders*** and its progeny, we vacate the order denying Appellant's post-sentence motions, remand for the appointment of new counsel, and deny ***Anders*** Counsel's petition as moot.

Our resolution of this appeal turns upon the duties of a criminal defense attorney who is faced with a client who insists upon litigating certain issues that, in counsel's estimation, lack merit. As this Court frequently receives briefs on direct and collateral review that display a conflation of the frameworks applicable in those distinct scenarios when an attorney believes there are no meritorious claims to raise on behalf of his or her client, we take this opportunity to remind criminal defense attorneys and trial courts how counsel must fulfill their professional and ethical obligations when faced with

¹ Appellant filed an application to consolidate the three appeals, which this Court granted by order of February 11, 2026.

a client who insists upon litigating issues that counsel perceives to be untenable.

Thus, before examining the appeal *sub judice*, we conduct a detailed review of the governing legal authority. The Sixth and Fourteenth Amendments to the United States Constitution guarantee criminal defendants the right to counsel at all critical stages of the prosecution up through a direct appeal from a sentence imposed upon a conviction. **See, e.g., McCoy v. Court of Appeals of Wisconsin, Dist. 1**, 486 U.S. 429, 435 (1988) (citing, *inter alia*, **Gideon v. Wainwright**, 372 U.S. 335 (1963)). As the High Court explained:

The guiding hand of counsel is essential for the evaluation of the prosecution's case, the determination of trial strategy, the possible negotiation of a plea bargain and, if the case goes to trial, making sure that the prosecution can prove the State's case with evidence that was lawfully obtained and may lawfully be considered by the trier of fact.

Id. (cleaned up).

The federal constitutional right to counsel does not extend to collateral proceedings pursuant to the Post Conviction Relief Act ("PCRA"), and our Supreme Court has not held that the Pennsylvania Constitution provides greater protection in this regard. **See Commonwealth v. Peterson**, 192 A.3d 1123, 1130 n.3 (Pa. 2018). At the PCRA stage, the defendant's right to counsel is rule-based, and also extends through an appeal. **Id.** (citing Pa.R.Crim.P. 904). Even so, whether constitutional or statutory, the right to counsel means the right to effective assistance of counsel. **See, e.g.,**

Strickland v. Washington, 466 U.S. 668, 686 (1984); ***Commonwealth v. Bradley***, 261 A.3d 381, 391 (Pa. 2021).

While a represented defendant maintains the right to make important decisions, such as whether to plead guilty, testify on his own behalf, or pursue an appeal, counsel may make lesser tactical decisions regarding litigation strategy without obtaining her client's consent. ***See, e.g., Florida v. Nixon***, 543 U.S. 175, 187 (2004). A defendant has no "constitutional right to compel appointed counsel to press nonfrivolous points requested by the client, if counsel, as a matter of professional judgment, decides not to present those points." ***Jones v. Barnes***, 463 U.S. 745, 751 (1983). As for matters that are so specious as to qualify as frivolous, counsel maintains the ethical obligation to refrain from pursuing them. ***See*** Pa.R.Prof.C. 3.1 ("A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.").

When a defendant and his appointed attorney have irreconcilable differences about how to proceed, a defendant may obtain the appointment of new counsel. ***See, e.g., Commonwealth v. Kearney***, 341 A.3d 774, 787 (Pa.Super. 2025). However, because an indigent defendant is not entitled to appointed counsel of his choice, substitute appointed counsel is not available "where the defendant merely alleges a strained relationship with counsel,

where there is a difference of opinion in trial strategy, where the defendant lacks confidence in counsel's ability, or where there is brevity of pretrial communication." ***Id.*** (cleaned up).

Nevertheless, counsel cannot be forced upon an unwilling defendant, as "[a] criminal defendant's right to counsel under the Sixth Amendment includes the concomitant right to waive counsel's assistance and proceed to represent oneself at criminal proceedings." ***Commonwealth v. Green***, 149 A.3d 43, 56–57 (Pa.Super. 2016) (citing, *inter alia*, ***Faretta v. California***, 422 U.S. 806 (1975)). Thus, an indigent defendant insistent upon pursuing strategies or issues rejected by counsel may seek to have counsel withdraw in favor of proceeding *pro se*. ***See, e.g., Commonwealth v. Robinson***, 320 A.3d 732, 736 (Pa.Super. 2024). This right to self-representation is not absolute: "[T]he request to proceed *pro se* must be made timely and not for purposes of delay and must be clear and unequivocal." ***Commonwealth v. Postie***, 200 A.3d 1015, 1024 (Pa.Super. 2018) (cleaned up). As this Court explained in the context of a direct appeal involving disagreement between counsel and client as to which issues to raise:

If the disagreement arises prior to counsel's filing of briefs, the appellant is free to petition for the withdrawal of counsel in order for the appellant to attempt to proceed *pro se* or with privately-retained counsel. If the disagreement arises after briefs have been filed by appointed counsel, and the appellant remains convinced of the merit of his or her proposed issues, the appellant may later challenge the effectiveness of his or her appellate counsel in a timely-filed collateral attack pursuant to the PCRA.

Commonwealth v. Morrison, 173 A.3d 286, 293 (Pa.Super. 2017).

An attorney appointed to represent an indigent defendant may conclude that her client has no viable defense. Counsel's obligations to the client in this circumstance vary at different stages of the litigation. The Supreme Court explained as follows concerning proceedings occurring before a judgment of sentence is final:

At the trial level, defense counsel's view of the merits of his or her client's case never gives rise to a duty to withdraw. That a defense lawyer may be convinced before trial that any defense is wholly frivolous does not qualify his or her duty to the client or to the court. Ethical considerations and rules of court prevent counsel from making dilatory motions, adducing inadmissible or perjured evidence, or advancing frivolous or improper arguments, but those constraints do not qualify the lawyer's obligation to maintain that the stigma of guilt may not attach to the client until the presumption of innocence has been overcome by proof beyond a reasonable doubt.

After a judgment of conviction has been entered, however, the defendant is no longer protected by the presumption of innocence. If a convicted defendant elects to appeal, he retains the Sixth Amendment right to representation by competent counsel, but he must assume the burden of convincing an appellate tribunal that reversible error occurred at trial. Although trial counsel may remain silent and force the prosecutor to prove every element of the offense, counsel for an appellant cannot serve the client's interest without asserting specific grounds for reversal. In so doing, however, the lawyer may not ignore his or her professional obligations. Neither paid nor appointed counsel may deliberately mislead the court with respect to either the facts or the law, or consume the time and the energies of the court or the opposing party by advancing frivolous arguments. An attorney, whether appointed or paid, is therefore under an ethical obligation to refuse to prosecute a frivolous appeal.

McCoy, 486 U.S. at 435–36 (footnote omitted).

Stated differently, "[t]he constitutional requirement of substantial equality and fair process can only be attained where counsel acts in the role

of an active advocate on behalf of his client, as opposed to that of *amicus curiae*.” **Anders**, 386 U.S. at 744. Counsel’s belief that his client’s position lacks merit does not allow him to seek to withdraw in the trial court, and “[h]is role as advocate requires that he support his client’s appeal to the best of his ability.” **Id.** It is only when counsel conscientiously examines the record and finds the appeal to be wholly frivolous that withdrawal is appropriate. **Id.** In this vein:

Direct appeal counsel seeking to withdraw under **Anders** must file a petition averring that, after a conscientious examination of the record, counsel finds the appeal to be wholly frivolous. Counsel must also file an **Anders** brief setting forth issues that might arguably support the appeal along with any other issues necessary for the effective appellate presentation thereof.

Commonwealth v. Wrecks, 931 A.2d 717, 720 (Pa.Super. 2007) (cleaned up). For a time, precedent dictated that the **Anders** brief should “not explain why the issues are frivolous and . . . not develop arguments against the appellant’s interests.” **Id.** (citation omitted). However, our Supreme Court revised that thinking and held that a proper **Anders** brief must:

(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.

Commonwealth v. Santiago, 978 A.2d 349, 361 (Pa. 2009).

Turning to collateral review where the right to counsel is rule-based, a different framework applies:

Counsel petitioning to withdraw from PCRA representation must proceed not under **Anders** but under **Commonwealth v. Turner**, 544 A.2d 927 (1988), and **Commonwealth v. Finley**, 550 A.2d 213 (1988) (*en banc*). Similar to the **Anders** situation, **Turner/Finley** counsel must review the case zealously. **Turner/Finley** counsel must then submit a “no-merit” letter to the trial court, or brief on appeal to this Court, detailing the nature and extent of counsel’s diligent review of the case, listing the issues which the petitioner wants to have reviewed, explaining why and how those issues lack merit, and requesting permission to withdraw.

Wrecks, 931 A.2d at 721 (cleaned up). We have explained:

Anders and **Turner/Finley** are close cousins, bearing similarities in that counsel is required to examine the record, present issues, and request permission to withdraw. However, there are also significant differences. **Anders** applies to direct appeals; **Turner/Finley** applies to PCRA cases[, both in the PCRA court and on appeal from the PCRA court’s disposition]. **Anders** counsel is not permitted to withdraw unless the appeal is wholly frivolous, but **Turner/Finley** counsel is permitted to do so if the case lacks merit, even if it is not so anemic as to be deemed wholly frivolous.

Id. See also **Commonwealth v. Chmiel**, 30 A.3d 1111, 1190 (Pa. 2011)

(“A frivolous issue is one lacking in any basis in law or fact, but is distinguishable from an issue that simply lacks merit.”).

These distinct frameworks are not interchangeable. This Court has at times accepted an **Anders** brief in a PCRA appeal because **Anders** requirements provide a greater safeguard than the **Turner/Finley** no-merit procedure. See, e.g., **Commonwealth v. Kennedy**, 266 A.3d 1128, 1131 n.4 (Pa.Super. 2021). Critically, however, on direct appeal, “[c]ounsel for an appellant may not submit an **Anders** brief that resembles a no-merit letter . . . detailing the nature and extent of his review and listing each issue the

petitioner wished to have raised, with counsel's explanation of why those issues were meritless." **Commonwealth v. Curry**, 931 A.2d 700, 702 (Pa.Super. 2007) (cleaned up). On direct appeal, "[t]he universe of potential claims is not limited to those claims and testimony that counsel's unschooled client believes the court should consider." **Santiago**, 978 A.2d at 360. When direct appeal counsel merely addresses the claims his client wants to raise, and does not either "advert to his own review of the record or flag anything in the record that he himself saw as having some chance of prevailing on appeal, but which he ultimately rejected as frivolous," or "state that there were no such references for him to make," the appellate court cannot be "assured, as **Anders** requires, that counsel fully performed his duty as [the defendant's] advocate to independently search the record as a trained advocate with an eye to uncovering appealable error, before concluding that [the] appeal was frivolous." **Id.**

To be granted leave to withdraw, direct appeal "counsel must fulfill both the technical and substantive requirements of **Anders**." **Curry**, 931 A.2d at 702 (citation omitted). "Failure to supply a complete record to this Court for independent review will render a request to withdraw technically inadequate, while supplying an **Anders** brief that argues against the interests of his client will raise an issue of substantive inadequacy." **Id.** (citation omitted).

Meanwhile, where a PCRA court dismisses a petition and allows PCRA counsel to withdraw when presented with a deficient no-merit letter that does

not satisfy the **Turner/Finley** mandate to “discuss all of the issues that the convicted defendant has raised in a first PCRA petition and explain why they lack merit,” the court deprives the defendant of his right to counsel, requiring us to vacate the dismissal and remand for the appointment of new counsel. **See Commonwealth v. Kelsey**, 206 A.3d 1135, 1139 (Pa.Super. 2019).

Since **Anders** allows withdrawal only if the appeal is **wholly frivolous**, and **Turner/Finley** permits withdrawal when **all** the PCRA issues the defendant wishes to raise lack merit, hybrid briefs, in which counsel advocates for the merits of some issues but explains why others do not warrant relief, are never proper in either context. During direct review, “when counsel and an appellant disagree on which issues should be raised and/or briefed on appeal, counsel must” exercise professional discretion and “only raise and/or brief the issues that counsel believes, consistent with counsel’s ethical duty, to be nonfrivolous.” **Morrison**, 173 A.3d at 293. An advocate’s brief that includes “frivolous issues requires the time and attention of already overburdened courts to address issues that have no chance of helping appellants obtain relief.” **Id.**

Similarly, when appointed to represent a defendant who has filed a *pro se* PCRA petition, “PCRA counsel’s duty is to either (1) amend a defective PCRA petition to raise claims he in his professional judgment deems contain sufficient arguable merit, or (2) certify that no meritorious issues exist.” **Commonwealth v. Bent**, 304 A.3d 738, 2023 WL 5097210, at *3 n.4

(Pa.Super. 2023) (non-precedential decision). “We have rejected as improper partial no-merit briefs . . . in which counsel argues against his client as to a fraction of the claims raised.” **Id.** (citing, *inter alia*, **Morrison**, 173 A.3d at 293).

Mindful of these principles, we turn to the pertinent history of the cases before us. On February 5, 2024, Appellant entered open guilty pleas to multiple counts of access device fraud and criminal conspiracy, as well as one count of receiving stolen property at the above-captioned dockets. The court sentenced him the same day to an aggregate term of imprisonment of three to ten years, along with restitution in the approximate amount of \$4,000. Plea counsel, Assistant Public Defender John E. Churchville, Jr., Esquire, filed a post-sentence motion seeking modification of his sentences to all run concurrently with each other for a total term of incarceration of one and one-half to five years. The trial court promptly denied the motion. Barrie L. Wellener, Esquire, also of the Office of the Public Defender, entered an appearance and filed an appeal, but in short order discontinued it by praecipe, representing that Appellant desired to forgo a direct appeal in favor of seeking relief through the PCRA.

On June 26, 2024, Appellant filed a *pro se* PCRA petition challenging Attorney Churchville’s effectiveness and the validity of his plea. The court

appointed **Anders** Counsel,² who filed a supplemental petition asserting that Appellant was entitled to a new sentencing hearing because plea counsel was ineffective in failing to object to the trial court's denial of Appellant's right to allocution. Rather than resting on the meritorious issue, she also proceeded to detail in the supplemental petition the reasons why she believed the issues Appellant raised in his *pro se* petition lacked merit.³

The certified record reflects that a PCRA hearing was scheduled and rescheduled, for which Appellant's attendance was secured by a series of writs of *habeas corpus ad prosequendum*. The record contains no notes of testimony from that proceeding nor an order disposing of the PCRA petition. However, we gather that the hearing was conducted on December 2, 2025, relief in the form of resentencing was granted, and the court immediately proceeded to the new sentencing hearing that resulted in the court again

² We refer to Attorney Weisenberger here as **Anders** Counsel for the sake of consistency, although she at this point was serving as PCRA counsel. Since the PCRA petition resulted in the imposition of a new judgment of sentence, the subsequent proceedings, including our present review, are within the realm of a direct appeal rather than the PCRA.

³ While the propriety of the PCRA proceedings is not before us, we highlight that this filing, amounting to a hybrid of an amended PCRA petition and **Turner/Finley** no-merit letter, was improper pursuant to the case law discussed above. Instead, Attorney Weisenberger should have limited the amended petition to issues she deemed in her professional judgment to have merit. If her issue had not prevailed, Appellant could have invoked the procedures recognized by our High Court's **Bradley** decision to challenge her effectiveness in jettisoning his proposed claims for relief. **See Bradley**, 261 A.2d at 405.

committing Appellant to three to ten years of incarceration and mandating the same amount of restitution.⁴

Anders Counsel then filed a timely “post-sentence motion” in each case. However, rather than advocating any issues, the motion listed the bases for relief that Appellant desired to raise, cited facts and legal authority that undermined Appellant’s positions, then nonetheless reasserted that Appellant requested the specified relief.⁵ Presented with no advocacy on Appellant’s behalf, the trial court denied the motion by order of December 24, 2025, and **Anders** Counsel filed timely notices of appeal on Appellant’s behalf.

⁴ The amount of an award of mandatory restitution pursuant to 42 Pa.C.S. § 1106 must be supported by the record and “may not be speculative or excessive.” **Commonwealth v. Solomon**, 247 A.3d 1163, 1170 (Pa.Super. 2021) (*en banc*) (cleaned up). Without the benefit of the sentencing transcript, we do not know if Appellant stipulated to restitution amounts or the Commonwealth proffered evidence to establish the losses sustained by the victims.

⁵ By explaining why the issues her unschooled client thought she should raise lacked merit, and exhibiting no independent review of the universe of available claims, Attorney Weisenberger submitted a pleading that reads more like a **Turner/Finley** no-merit letter than an advocate’s Pa.R.Crim.P. 720 motion. Whether this amounted to ineffective assistance of counsel is not before us in this appeal. **See Commonwealth v. Holmes**, 79 A.3d 562, 576 (Pa. 2013) (holding that, with enumerated exceptions not implicated here, “claims of ineffective assistance of counsel are to be deferred to PCRA review; trial courts should not entertain claims of ineffectiveness upon post-verdict motions; and such claims should not be reviewed upon direct appeal.”).

In response to the court's direction to file Pa.R.A.P. 1925(b) statements of errors complained of on appeal,⁶ **Anders** Counsel submitted statements of intent to file an **Anders** brief. Therein, she identified the issues Appellant desired to raise on appeal, represented that she had "reviewed the docket, *pro se* filings,^[7] the transcript from the guilty plea and sentencing and

⁶ Highlighting another issue that we frequently encounter, we remind the trial court that all Rule 1925(b) orders must specify:

(i) the number of days after the date of entry of the judge's order within which the appellant must file and serve the Statement;

(ii) that the Statement shall be filed of record;

(iii) that the Statement shall be served on the judge pursuant to paragraph (b)(1) and both the place the appellant can serve the Statement in person and the address to which the appellant can mail the Statement. In addition, the judge may provide an email, facsimile, or other alternative means for the appellant to serve the Statement on the judge; and

(iv) that any issue not properly included in the Statement timely filed and served pursuant to subdivision (b) shall be deemed waived.

Pa.R.A.P. 1925(b)(3). The orders in this case do not follow these mandates in that each: (1) provides a specific due date rather than a number of days after the entry of the order, which is not necessarily the same as the date on the order; (2) states "[c]opies of each must be delivered to my Chambers by those dates" without providing addresses; and (3) includes no admonition that failure to comply will result in waiver. **See** Order, 1/25/26 (identical at each docket).

⁷ Appellant submitted numerous *pro se* documents in the trial court while represented by counsel. With such hybrid representation generally disallowed, it appears from the docket that the clerk of courts properly forwarded these filings to counsel in accordance with Pa.R.Crim.P. 576(a)(4).

resentencing,” and indicated that she believed there were no non-frivolous issues to raise on appeal. **See** Statement of Intent, 2/17/26, at ¶¶ 3-4. In response, the trial court filed a statement in lieu of an opinion imparting that it would not author a Rule 1925(a) opinion.

In this Court, **Anders** Counsel filed a petition to withdraw as counsel and an **Anders** brief. Appellant submitted an application for relief expressing a desire to respond *pro se* and seeking a copy of his resentencing transcript. Upon learning that the transcript had yet to be transcribed despite counsel’s prior representation that she had reviewed it, we denied counsel’s petition pursuant to **Commonwealth v. Flowers**, 113 A.3d 1246, 1250 (Pa.Super. 2015) (explaining that the failure to ensure that the notes of testimony are transcribed and included in the certified record indicates that “[c]ounsel could not have fulfilled his duty to review the entire record for any non-frivolous issues”). We ordered counsel to file and serve either an advocate’s brief or a new petition to withdraw and **Anders** brief subsequent to obtaining the missing notes of testimony.

Anders Counsel promptly submitted a new petition to withdraw in which she indicated that she forwarded a copy of the transcript to Appellant, and informed this Court: “Having been at sentencing, review of the sentencing transcript and the record again as a whole did not alter counsel’s position that [A]ppellant’s appeal is **without merit**. Counsel did not glean any meritorious issues from this second review.” Petition to Withdraw, 7/9/26, at ¶ 8

(emphasis added). However, **Anders** Counsel did not ensure that the certified record was supplemented to include the resentencing transcript. Indeed, to date this Court does not have it.

Since she identified no additional matters, counsel rested with her initial brief, which is not labeled as an **Anders** brief, but as the “Brief for Appellant.” At the outset, it appears to be an advocate’s brief, as it presents challenges to his guilty plea and sentence that Appellant had persistently sought to advance, stating thusly:

Whether the trial court erred in dismissing Appellant’s post-sentence motion where Appellant alleged:

(1) Sentence was unlawful because the consecutive nature caused the sentence to be outside the standard range of the sentencing guidelines and the trial court failed to give valid reason for deviating from the guidelines;

(i) statement in compliance with 2119(f)

(ii) substantial question

(2) Sentence was unlawful because victims never requested restitution[;]

(3) Guilty plea was unlawful because [Appellant] did not sign a guilty plea colloquy form.

Brief for Appellant at 4 (unnecessary articles, capitalization, and underlining omitted). Rather than signaling that these are issues of arguable merit identified by counsel which nonetheless fail to support the appeal, the brief provides: “Suggested answer in the affirmative.” **Id.** This appearance of

advocacy continues in the summary of the argument before abruptly switching gears, stating as follows:

The trial court erred in denying [A]ppellant's post-sentence motion where [A]ppellant was sentenced to an aggregate sentence outside the standard range, where his plea was not knowing, voluntary, and intelligent, and where restitution should have never been requested.

Counsel has thoroughly researched [A]ppellant's allegations and now filed this brief on behalf of . . . Appellant pursuant to **Anders** . . . and **Commonwealth v. McClendon**, 435 A.2d 1185 (Pa. 1981).

Id. at 9.

The tone of the argument portion of the brief vacillates between that of an advocate's brief and a **Turner/Finley** no-merit letter, arguing that Appellant's desired sentencing challenge does not present a substantial question because "there is zero case law to support" it, his "plea was knowing, voluntary, and intelligent[,]" and that "[t]he facts presented at the time of his plea" supported the restitution amount and grading of the offense. **Id.** at 15-16, 19-20. The brief then concludes with the following: "WHEREFORE, Appellant respectfully requests that this Honorable Court remand for resentencing and withdraw his plea." **Id.** at 21.

Here, it is apparent that **Anders** Counsel did precisely what this Court said counsel may not do on direct appeal, namely, "submit an **Anders** brief that resembles a no-merit letter . . . detailing the nature and extent of his review and listing each issue the petitioner wished to have raised, with counsel's explanation of why those issues were meritless." **Curry**, 931 A.2d

at 702 (cleaned up). Likewise, her renewed petition to withdraw indicates that this “appeal is without merit” because **Anders** Counsel “did not glean any meritorious issues[.]” Petition to Withdraw, 7/9/26, at ¶ 8. This indication that counsel did not note any issues on which she thought Appellant would prevail is not equivalent to attesting that, after an independent review of the proceedings there is not a single issue with a basis in law or fact that could support the appeal, rendering it wholly frivolous. **See Chmiel**, 30 A.3d at 1190 (“A frivolous issue is one lacking in any basis in law or fact, but is distinguishable from an issue that simply lacks merit.”).

We reiterate that an **Anders** brief must reflect that counsel has vindicated the defendant’s Sixth Amendment rights by “act[ing] in the role of an active advocate on behalf of h[er] client, as opposed to that of *amicus curiae*.” **Anders**, 386 U.S. at 744. She must convince the appellate court not that she has rejected the issues her client wanted to raise, but that she “fully performed h[er] duty as [Appellant’s] advocate to independently search the record as a trained advocate with an eye to uncovering appealable error, before concluding that [the] appeal was frivolous.” **Santiago**, 978 A.2d at 360. Counsel must then either “flag anything in the record that [s]he [her]self saw as having some chance of prevailing on appeal, but which [s]he ultimately rejected as frivolous,” or “state that there were no such references for h[er] to make.” **Id.**

Here, **Anders** Counsel's filings, beginning with her amended PCRA petition and continuing through her brief in this appeal, suggest *amicus curiae* status, not the work of a zealous advocate. She has failed to demonstrate an independent review of the record beyond the issues Appellant wished to raise, neglected to ensure that this Court had a complete certified record, and concluded her brief with a request for appellate relief rather than an assertion that the appeal was wholly frivolous. As such, **Anders** Counsel has satisfied neither the technical nor substantive mandates of **Anders**, and we may not proceed to conduct our independent review to determine whether the appeal is indeed wholly frivolous.

As mentioned at the outset, we have taken this opportunity to remind the criminal defense bar that they have distinct professional obligations at the various stages of their clients' cases, not because this appeal presents a novel situation, but because it involves missteps that this Court encounters all too often from attorneys all over the Commonwealth. Further, we appreciate **Anders** Counsel's well-intentioned efforts to do right by both the court and her client, explaining her exercise of professional judgment for the benefit of both. However, it is imperative that attorneys adhere to the carefully developed precedent that balances the rights of defendants, the ethical duties of counsel, and the aim of judicial economy.

For the reasons stated above, we cannot grant **Anders** Counsel's petition to withdraw. Furthermore, we deem the best course of action on the

face of this record to be not a directive for present counsel to conduct the proper review and draft a new appellate submission, but to remand for: (1) the appointment of new appellate counsel within thirty days of the date of this opinion; (2) the filing of a new Rule 1925(b) statement by counsel within thirty days of his or her appointment; and (3) a responding Rule 1925(a) opinion by the trial court within sixty days thereafter. New counsel shall review the entire proceedings, ensure that a supplemental record certified to this Court is complete, and file either an advocate's brief or a petition to withdraw and **Anders** brief that complies with the precedent detailed *supra* within thirty days of the filing of the trial court's Rule 1925(a) opinion. The Commonwealth may file its brief of appellee within thirty days thereafter. In light of this disposition, we deny as moot **Anders** Counsel's petition to withdraw.

Case remanded with instructions. Petition to withdraw filed by Kristen L. Weisenberger, Esquire denied as moot. Panel jurisdiction retained.