

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1541-2016
vs. :
LONQUA HOWELL, : CRIMINAL DIVISION
Defendant :

OPINION AND ORDER

This matter came before the court on Loniqua Howell’s Petition to Appeal Nunc Pro Tunc, which the court treated as a Post Conviction Relief Act (PCRA) petition.

On July 5, 2016, Officer Debra Wasilauski of the Williamsport police filed a criminal complaint against Loniqua Howell (hereinafter “Howell”) charging her with accident involving damage to attended vehicle or property,¹ a misdemeanor of the third degree; driving while operating privilege suspended or revoked,² which is also known as driving under suspension (DUS), a summary offense; and failure to stop at a red signal,³ a summary offense.

On September 12, 2016, Howell entered a guilty plea to accident involving damage to attended vehicle or property and DUS. The court sentenced Howell to pay fines, costs, and restitution, and to be placed under the supervision of the Adult Probation Office of Lycoming County for a period of 12 months’ probation.

As a result of these convictions, the Pennsylvania Department of

¹ 75 Pa. C. S. A. §3743(a).
² 75 Pa. C. S. A. §1543(a).
³ 75 Pa. C.S. A. §3112(a)(3)(i)

Transportation (hereinafter “PennDOT”) suspended Howell’s operating privileges.⁴ Howell appealed. See CV-2016-001391. However, her suspension appeal hearing was continued to permit Howell to attempt to appeal her underlying convictions.

On January 6, 2017, Howell filed a Petition to Appeal Nunc Pro Tunc, which the court treated as a PCRA petition. In her petition, Howell stated that she felt she was improperly advised by counsel because counsel did not notify her of the consequences/suspensions that would result from her guilty pleas. She also asserted that she needs her license for her job and that a suspension was waived for another individual on the day Howell entered her guilty plea.

The court appointed counsel to represent Howell and gave counsel an opportunity to either file an amended PCRA petition or a no merit letter pursuant to *Commonwealth v. Turner*, 544 A.2d 927 (Pa. 1988) and *Commonwealth v. Finley*, 550 A.2d 213 (Pa. Super. 1988). PCRA counsel obtained the transcript of Howell’s guilty plea and sentencing hearing, spoke to Howell by telephone, and reviewed her file. Thereafter, he filed a motion to withdraw, which included a *Turner/Finley* no merit letter. PCRA counsel concluded that Howell’s petition lacked merit because her guilty plea counsel was not obligated to advise Howell that her license would be suspended as a collateral civil consequence of her guilty plea. PCRA counsel also concluded that Howell entered a knowing, intelligent and voluntary guilty plea.

After an independent review of the record, the court agrees that Howell’s petition lacks merit.

⁴See 75 Pa. C. S. A. §§ 1532(b), 1543(c).

A license suspension is a collateral civil consequence of a criminal conviction. *Commonwealth v. Duffey*, 639 A.2d 1174, 1176 (Pa. 1994). A defendant's lack of knowledge of the collateral consequences of pleading guilty does not undermine the validity of his or her plea. *Id.* In other words, there is no requirement that counsel advise a defendant at the time of his or her guilty plea that his or her operating privilege will be suspended as a consequence of the plea. *Commonwealth v. Bell*, 96 A.23d 1005, 1019 (Pa. 2014)(“As operating privilege suspensions are collateral civil consequences, not criminal penalties, they do not violate a motorist's equal protection or due process rights, nor does a defendant in a criminal case need to be informed of the collateral consequences for his criminal conduct, as it does not constitute a portion of his or her punishment.”).

Furthermore, from a review of the record, it appears that Howell was aware, or at least expected, at the time of the guilty plea that she would lose her license for some additional period of time when she specifically stated, “I guess I made a rational decision that landed me here today. I could be getting my license back in October, but that won't be happening.” (Transcript, 9/12/2016, at 18-19).

Accordingly, the court will grant counsel's motion to withdraw and give Howell notice of the court's intent to dismiss her petition without holding an evidentiary hearing.

ORDER

AND NOW, this 8th day of June 2017, upon review of the record and pursuant to Rule 907(1) of the Pennsylvania Rules of Criminal Procedure, the court finds that as no purpose would be served by conducting an evidentiary hearing, none will be scheduled

and the parties are hereby notified of this court's intention to dismiss the petition. Howell may respond to this proposed dismissal within twenty (20) days. If no response is received within that time period, the court will enter an order dismissing the petition.

The court grants PCRA counsel's motion to withdraw. Howell may represent herself or hire private counsel, but the court will not appoint new counsel to represent her.

By The Court,

Marc F. Lovecchio, Judge

cc: Kenneth Osokow, Esquire (ADA)
Donald F. Martino, Esquire
Loniqua Howell,
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Work File
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