

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:
	:
	:
vs.	: NO. 96-10,740
	:
JOHN BICKEL,	: CRIMINAL ACTION – LAW
	:
Defendant	:

**OPINION and ORDER**

Before the Court is the matter of the Defendant entitled “Judge Ordered Parole Board to Release Man: ‘The Parole Board Can’t Do Whatever It Wants’” filed December 13, 1999. The request for relief must be denied.

The Court first notes that, although the Prothonotary docketed this document as a Post Conviction Relief Act (PCRA) petition, the document does not in any way comply with the requirements of that Act. *See* 42 Pa.C.S. §§9543, 9545. The exclusive method of obtaining post conviction relief is through the PCRA. *Commonwealth v. Lantzy*, 736 A.2d 564 (Pa. 1999). However, the Court will not grant the relief requested due to the reasons hereafter set forth.

First, the Court is generally without jurisdiction to modify or rescind a sentencing order after the thirty day statutory limitation period has expired. 42 Pa.C.S. §5505; *Commonwealth v. Wesley*, 688 A.2d 201, 203 (Pa.Super. 1997).

Second, as Defendant was sentenced to a period of state incarceration, the power to parole is vested solely in the Pennsylvania Board of Probation and Parole. *Bowman v. Pa. Board of Probation and Parole*, 709 A.2d 945 (Pa.Cmwlt. 1998). Parole is a matter of grace,

not right. *Id.* at 948; *Stewart v. Pa. Board of Probation and Parole*, 714 A.2d 502 (Pa.Cmwlth. 1998).

Finally, in support of his filing, Defendant relates a story from the “Times Herald” of Norristown, Pennsylvania, in which it was apparently reported that Judge Paul W. Tressler ordered the release of a convicted sex offender after the state Parole Board denied parole for defendant’s failure to participate in a sex offender therapy program, which required admission of guilt (which defendant refused to do). A second hand version of a newspaper article will obviously not be considered persuasive authority. If Defendant had furnished a copy of Judge Tressler’s opinion, and assuming the opinion actually said what it was reported to say, this Court would readily consider the reasoning of Judge Tressler. However, a Court of Common Pleas decision is not binding upon this Court. Further, we note the Parole Board does have the authority to deny parole for failure to complete a sexual offender therapy program, and cannot be compelled to release the defendant. *Weaver v. Pa. Board of Probation and Parole*, 688 A.2d 766 (Pa.Cmwlth. 1997).

**ORDER**

*AND NOW*, this 18<sup>th</sup> day of February 2000, the Court hereby DENIES the relief requested by Defendant in his filing of December 13, 1999, entitled “Judge Ordered Parole Board to Release Man: ‘The Parole Board Can’t Do Whatever It Wants.’” This Order is entered without prejudice to the Defendant to file an appropriate PCRA petition.

BY THE COURT,

William S. Kieser, Judge

cc: Court Administrator  
District Attorney  
John Bickel – DC 1167  
P. O. Box 256; Waymart, PA 18472-0256  
Judges  
Nancy M. Snyder, Esquire  
Gary L. Weber, Esquire (Lycoming Reporter)