

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA : No. CR-1201-2002
: (02-11,201)
vs. :
:
:
JERMAINE FREDERICK, :
Defendant : PCRA

O R D E R

AND NOW, this ___ day of November 2005, upon review of the record and pursuant to Rule 907(a) of the Pennsylvania Rules of Criminal Procedure, it is the finding of this Court that Defendant's Post Conviction Relief Act (PCRA) Petition filed in the above-captioned matter raises no genuine issue of fact and Petitioner is not entitled to post conviction collateral relief. The relevant facts follow.

On November 1, 2002, Defendant Jermaine Frederick pleaded guilty to two counts of recklessly endangering another person, one count of fleeing and eluding a police officer and several summary offenses. The terms of the plea agreement provided for a sentence of one year less one day to two years less one day county time and consecutive supervision of 4 years. The court sentenced Defendant on Count 4 (recklessly endangering) to incarceration in the Lycoming County Prison for a minimum of one year less one day to a maximum of two years less one day and 4 years consecutive probation (2 years each on count 5 recklessly endangering and count 6 fleeing/eluding).

Defendant violated his probation. On November 3, 2004, the court held a probation violation hearing, revoked Defendant's probation and re-sentenced him on counts 5 and 6 to consecutive terms of incarceration in a state correctional facility for a minimum of 1 year and a maximum of 2 years, for an aggregate sentence of 2 to 4 years.

On April 26, 2005, Defendant filed a Post Conviction Relief Act (PCRA) petition alleging his guilty plea was unlawfully induced and his sentence was greater than the lawful maximum. The asserted basis for these allegations is the court failed to comply with the plea agreement when it re-sentenced him on November 3, 2004. In counsel's Turner/Finley letter, he also mentions that Defendant believes he is entitled to credit for time served of one year less one day.

As no purpose would be served by conducting any further hearing, none will be scheduled and the parties are hereby notified of this Court's intention to deny the Petition. Defendant 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.

By The Court,

Kenneth D. Brown, P.J.

cc: Kenneth Osokow, Esquire (ADA)
Law Clerk