

**IN THE COURT OF COMMON PLEAS
LYCOMING COUNTY, PENNSYLVANIA
CRIMINAL DIVISION**

| | | |
|------------------------|---|-----------------------|
| COMMONWEALTH | : | |
| | : | |
| v. | : | No.: 89-10,703 |
| | : | |
| MICHAEL MEEHAN, | : | |
| Defendant | : | |

OPINION AND ORDER

Before the Court is Defendant's Petition under the Post-Conviction Relief Act (PCRA), filed August 23, 2004. A conference was held on the matter on March 28, 2005. Defendant's current counsel, Jay Stillman, Esq., filed an Application for Leave to Withdraw Appearance on April 25, 2005 asserting that he had reviewed Defendant's PCRA petition and found no meritorious issues to present to the Court. Mr. Stillman requests that he be allowed to withdraw as Defendant's attorney in this case.

The Court agrees that no meritorious issues have been raised in the petition. Defendant's petition has been filed beyond the one-year filing requirement under the PCRA. 42 Pa.C.S.A. §9545(b)(1). The single issue raised in the PCRA petition that might justify exception to the filing requirement is Defendant's claim of after-discovered exculpatory evidence, namely the victim's pre-existing injury to the eardrum. However, upon review of the transcript, and as conceded in counsel's *Turner*¹ letter, the evidence was not only available at trial, it was considered by the jury. (N.T. 9/14-15/89 pp. 10-11, 64-65). Defendant's claim is without merit.

¹Commonwealth v. Turner, 518 Pa. 491, 544 A.2d 927 (Pa. 1988). See also Commonwealth v. Finley, 379 Pa.Super. 390, 550 A.2d 213 (Pa.Super. 1988).

The Court finds that no purpose would be served by conducting any further hearing, and therefore none will be scheduled. Pursuant to Pennsylvania Rule of Criminal Procedure 907(1), 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.

The Court additionally shall grant Mr. Stillman's Application for Leave to Withdraw Appearance as there are no meritorious issues raised in the Defendant's PCRA petition.

ORDER

AND NOW, this ____ day of April, 2005, the Court GRANTS the Application for Leave to Withdraw Appearance filed by Attorney Stillman on April 25, 2005. The Court hereby notifies the Defendant that it is the intention of the Court to dismiss his PCRA petition unless he files an objection to that dismissal within twenty days of today's date.

By The Court,

Nancy L. Butts, Judge

xc: DA (KO)
J. Stillman, Esq.
Michael Meehan – BE3945
S.C.I Frackville
1111 Altamont Boulevard
Frackville, PA 17931-2699
Hon. Nancy L. Butts
Law Clerk
G. Weber, Esq.