

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :
 :
 :
 v. : **Nos. 03-10,196; 03-11,662;**
 : **03-11,579**
 : **CRIMINAL DIVISION**
TIMOTHY W. PHILLIPS, JR., :
 Defendant :

OPINION AND ORDER

Before this Honorable Court, is the Defendant's Petition under the Post Conviction Relief Act (PCRA), filed February 28, 2005. The Defendant alleges ineffective assistance of counsel and various errors with regard to the length and concurrent versus consecutive nature of his sentence.

On July 26, 2004, the Defendant pled guilty and was sentenced on three separate cases. Pursuant to a plea agreement with the District Attorney's Office, the Defendant pled guilty to one count each of Criminal Trespass (a felony in the second degree), Theft by Unlawful Taking (a felony of the third degree), and Conspiracy to Commit Robbery (a felony in the second degree). The Court sentenced the Defendant to three (3) to six (6) years, effective January 23, 2003 for the conspiracy charge and, two (2) to four (4) years, to run concurrently, for the trespass and theft charges.¹

The Defendant filed the instant PCRA Petition, pro se, on February 28, 2005. The Court appointed Public Defender William J. Miele as counsel for the Defendant and he promptly filed an Amended PCRA Petition on November 4, 2005.

After reviewing the petition, the Court finds that the Petition still does not allege a basis for relief under the PCRA. There are no errors with regard to the grading of the Defendant's

¹ The July 26, 2004 plea also dismissed a previous plea entered by the Defendant on the conspiracy charge.

charges, all of his sentences do run concurrently, the length of sentences were pursuant to a plea agreement, and he was given credit for time served.

Based upon the foregoing, the Court finds no basis upon which to grant the Defendant's PCRA petition. Additionally, the Court finds that no purpose would be served by conducting any further hearing. 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.

ORDER

AND NOW, this ____ day of February 2006, the Defendant and his attorney are notified that it is the intention of the Court to dismiss his PCRA petition unless he files an objection to that dismissal within twenty days (20) of today's date.

By The Court,

Nancy L. Butts, Judge

cc: DA (KO)
William J. Miele, Esq.
Judges
Law Clerk
Gary L. Weber, Esquire