

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	DOCKET NO. 575-2005
v.	:	CRIMINAL DIVISION
	:	
JEROME EDWARD QUARTMAN,	:	PCRA
Defendant	:	

**OPINION AND ORDER**

On June 20, 2007, after a jury trial, Jerome Edward Quartman (Defendant) was found guilty of Possession of Cocaine with the Intent to Deliver, Possession of a Controlled Substance, and Possession of Drug Paraphernalia. The undersigned Judge sentenced Defendant to a term of incarceration in a state correctional institution for five (5) to ten (10) years, effective June 20, 2007. On August 28, 2007, Defendant filed post-sentence motions; the Court denied these motions on October 2, 2007.

On October 19, 2011, Defendant filed a pro-se PCRA Petition. The Court appointed Lori Rexroth, Esquire, to represent Defendant in the matter. Following a preliminary PCRA conference held on January 25, 2012, the Court directed Attorney Rexroth request a further hearing after her review of the record or submit a *Turner/Finley* letter. In accordance with *Turner/Finley*, Attorney Rexroth filed a Motion to Withdraw on March 21, 2012. This Court hereby GRANTS Attorney Rexroth's motion because Defendant's PCRA Petition is without merit.

In his pro-se PCRA Petition, Defendant claims that he received ineffective assistance of counsel. Defendant bases his IAC claim on his counsel's failure to properly litigate a suppression issue in his case. Essentially, Defendant claims that his ineffective counsel caused the suppression Court to err in denying his motion to suppress evidence. This claim is a version

of an issue that has been previously raised in a pre-trial suppression motion, litigated prior to Defendant's trial, and subjected to appellate review by the Pennsylvania Superior Court and denied appellate review by the Pennsylvania Supreme Court. Thus, Defendant's pending PCRA Petition lacks merit.

On September 6, 2005, Defendant filed an Omnibus Pretrial Motion, including a Motion to Suppress Evidence. In that motion, Defendant claimed that the Court should suppress the evidence acquired from Defendant's glove compartment because the police did not have probable cause to support the traffic stop. Prior to Defendant's trial, the Honorable Nancy Butts held a full-hearing on Defendant's Suppression Motion. In an Opinion and Order dated February 1, 2006, that Court concluded that the evidence that the police gathered during their traffic stop of Defendant was admissible and denied Defendant's motion to suppress.

Following trial, Defendant appealed to the Pennsylvania Superior Court (Docket No. 1799 MDA 2007). On December 2, 2008, the Pennsylvania Superior Court denied Defendant's appeal. Based on a dissenting opinion, Defendant appealed to the Pennsylvania Supreme Court. On March 13, 2009, the Pennsylvania Supreme Court denied Defendant's Petition for Allowance of Appeal *Nunc Pro Tunc* (Docket No. 8 MM 2009) because it was untimely.

By order dated March 24, 2011, this Court reinstated Defendant's appeal rights, granting Defendant thirty (30) days to file a timely Petition for Allowance of Appeal with the Pennsylvania Supreme Court. On August 30, 2011, the Pennsylvania Supreme Court denied Defendant's Petition for Allowance of Appeal (Docket No. 273 MAL 2011).

Therefore, this Court finds that Defendant's pending PCRA Petition lacks merit because the issue was previously litigated in the appellate courts. In his appeal to the Pennsylvania Superior Court, Defendant raised the issue of "whether the trial court err[ed] by denying the

Appellant's motion to suppress evidence." *Commonwealth v. Quartman*, 1799 MDA 2007, 4. The Superior Court held that Defendant's claim for relief failed and upheld the decision of the trial court. *Id.* at 7. The Pennsylvania Supreme Court denied appellate review of that decision. Therefore, Defendant's PCRA Petition lacks merit because the exact same issue Defendant raises today has been raised, litigated, and decided by the Commonwealth's appellate courts.

Based upon the foregoing, the Court finds no basis upon which to grant the Defendant's PCRA Petition. Additionally, no further hearing will be scheduled by the Court because it 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 the Court's intention to deny Defendant's PCRA Petition. Defendant may respond to this proposed dismissal within twenty (20) days. If the Court does not receive a response within that time period, the Court will enter an order dismissing Defendant's PCRA Petition.

### **ORDER**

AND NOW, this \_\_\_ day of June, 2012, Attorney Rexroth's Motion to Withdraw is GRANTED because there is no basis to grant Defendant's PCRA Petition. Defendant is notified that it is the Court's intention to dismiss his PCRA Petition unless he files an objection to that dismissal within twenty days (20) of the date of this order.

BY THE COURT,

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Richard A. Gray, J.

RAG/abn

cc: DA (KO)  
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