

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	CR-875-2007
	:	
v.	:	
	:	CRIMINAL DIVISION
WILLIAM J. REYNOLDS,	:	
Petitioner	:	PCRA

OPINION AND ORDER

On August 25, 2014, the Petitioner filed a Post-Conviction Relief Act (PCRA) petition. On November 4, 2014, PCRA Counsel sent the Petitioner a “No Merit Letter.” A court conference was also held on November 4, 2014. On November 25, 2014, PCRA Counsel filed a Motion to Withdraw as Counsel.

I. Background

On May 15, 2008, a jury found the Petitioner guilty of Rape of a Child,¹ Involuntary Deviate Sexual Intercourse with a Child,² Statutory Sexual Assault,³ Aggravated Indecent Assault,⁴ and Indecent Assault.⁵ On January 23, 2009, the Petitioner was sentenced to an aggregate of 15 to 30 years in a state correctional institution. On February 2, 2009, the Petitioner filed a post-sentence motion. In the post-sentence motion, the Petitioner requested a new trial based on the statements of three individuals. These statements were made after the Petitioner’s trial. In a post-sentence opinion filed April 7, 2009, the trial court found that the Petitioner was not entitled to relief based on the statements. In a non-precedential decision filed March 12, 2010, the Superior Court found no error in the trial court’s determination that the statements did

¹ 18 Pa. C.S. § 3121(c).

² 18 Pa. C.S. § 3123(b).

³ 18 Pa. C.S. § 3122.1(a).

⁴ 18 Pa.C.S. § 3125.

⁵ 18 Pa.C.S. § 3126.

not entitle the Petitioner to relief. On October 2, 2012, the Petitioner filed his first PCRA Petition. On April 29, 2013, the PCRA court reinstated the Defendant's right to file a Petition for Allowance of Appeal to the Supreme Court of Pennsylvania. On October 31, 2013, the Supreme Court of Pennsylvania denied the Petitioner's request for allowance of appeal.

In his petition, the Petitioner argues that he is entitled to PCRA relief as a result of the post-trial statements of the three individuals.

II. Discussion

To be eligible for PCRA relief a petitioner must show “[t]hat the allegation of error has not been previously litigated” *See* 42 Pa. C.S. § 9543(a)(3). “[A]n issue has been previously litigated if the highest appellate court in which the petitioner could have had review as a matter of right has ruled on the merits of the issue.” 42 Pa. C.S. § 9544(a)(2). “[F]inal orders of the Superior Court . . . may be reviewed by the [Pennsylvania] Supreme Court upon allowance of appeal.” 42 Pa. C.S. § 724(a). “Review on a writ of certiorari is not a matter of right, but of judicial discretion.” Sup. Ct. R. 10. Because the Superior Court ruled that the Petitioner was not entitled to relief based on the statements, the issue raised by the Petitioner has been litigated. Therefore, the Petitioner is not eligible for relief.

III. Conclusion

Because the Superior Court ruled on the merits of the Petitioner's issue, the Petitioner is not eligible for relief under the PCRA.

ORDER

AND NOW, this _____ day of January, 2015, it hereby ORDERED and

DIRECTED as follows:

1. Pursuant to Pennsylvania Rule of Criminal Procedure 907(1), the Petitioner is hereby notified that the Court intends to dismiss his PCRA petition unless he files an objection to the intended dismissal within twenty (20) days of this order's date.
2. The Motion to Withdraw as Counsel, filed November 25, 2014, is hereby GRANTED, and Attorney may withdraw from the above-captioned case.

By the Court,

Nancy L. Butts, President Judge