

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :  
 : No. CP-41-CR-1831-2012;  
 vs. : CP-41-CR-1834-2012  
 :  
 ANTHONY MONROE, : Notice of Intent to Dismiss PCRA  
 Defendant : without an evidentiary hearing

**OPINION AND ORDER**

By way of background, Anthony Monroe was charged in case 1831-2012 with delivery of a controlled substance (heroin),<sup>1</sup> an ungraded felony; possession with intent to deliver a controlled substance (heroin)<sup>2</sup>, an ungraded felony; and criminal use of a communication facility,<sup>3</sup> a felony of the third degree. These charges occurred on or about October 4, 2012. Monroe was also charged with delivery of a controlled substance (heroin), possession with intent to deliver a controlled substance (heroin) and criminal use of a communication facility in case 1834-2012. These offenses occurred on or about March 21, 2012.

On November 19, 2012, Monroe entered a plea of guilty to count 1, delivery of a controlled substance in case 1831-2012. He was sentenced to pay costs and fees and to undergo incarceration in a state correctional institution for three to six years. The remaining charges in case 1831-2012 and all the charges in case 1834-2012 were dismissed.

On September 9, 2014, Monroe wrote a letter to the court in which he claimed

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<sup>1</sup> 35 P.S. §780-113(a)(30).

<sup>2</sup> 35 P.S. §780-113(a)(30).

<sup>3</sup> 18 Pa.C.S. §7512.

that his arrest was illegal because he was arrested without a valid warrant in that the magistrate never actually signed it. The court treated Monroe's letter as a Post Conviction Relief Act (PCRA) petition. See *Commonwealth v. Johnson*, 803 A.2d 1291, 1293 (Pa. Super. 2002)("any petition filed after the judgment of sentence becomes final will be treated as a PCRA petition"). As this was Monroe's first such petition and he appeared to be indigent, the court appointed counsel to represent him and gave counsel an opportunity to file an amended PCRA petition or a "no merit" letter pursuant to *Commonwealth v. Turner*, 518 Pa. 491, 544 A.2d 927 (1988) and *Commonwealth v. Finley*, 379 Pa. Super. 390, 550 A.2d 213 (1988).

After an independent review of the record, the court finds that Monroe's PCRA petition is untimely.

Unless the petitioner pleads and proves one of the three statutory exceptions, a PCRA petition must be filed within one year of the date the judgment becomes final. 42 Pa.C.S.A. §9545(b)(1). The time limits of the PCRA are jurisdictional in nature. "[A]ny petition filed outside of the one-year jurisdictional time bar is unreviewable unless it meets certain listed exceptions and is filed within sixty days of the date the claim first could have been presented." *Commonwealth v. Lesko*, 609 Pa. 128, 15 A.3d 345, 361 (2011).

Monroe pled guilty and was sentenced on November 19, 2012. No appeal was taken from this sentence. Therefore, Monroe's judgment of sentence became final on or about December 19, 2012 and any PCRA claims related to his conviction and sentence had to be filed by December 19, 2013 to be considered timely on its face.

Monroe did not file his letter/petition until September 9, 2014. He also did not plead any facts in his petition that would support any of the statutory exceptions. Therefore, Monroe's claims are patently untimely and the court lacks jurisdiction to grant him any relief.<sup>4</sup>

### ORDER

AND NOW, this 7 day of January 2015, pursuant to Pa.R.Crim.P. 907, the court being satisfied that there are no genuine issues of material fact, Monroe is not entitled to relief and no purpose would be served by any further proceedings, the court gives the parties notice of its intent to dismiss Defendant Anthony Monroe's PCRA petition without holding an evidentiary hearing. The court gives Defendant Anthony Monroe twenty (20) days within which to respond to this proposed dismissal. If no response is filed, the Court will enter an order dismissing the petition. If a response is filed, the Court will review it to see if it alleges any facts or circumstances that would show the petition is timely or that any of the issues have merit or would require an evidentiary hearing.

The court also grants counsel's petition to withdraw. Anthony Monroe is advised that he may represent himself or hire private counsel to represent him, but the court

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<sup>4</sup> Even if Monroe had timely filed his petition, however, he would not be entitled to relief. The original criminal complaints and affidavits of probable cause contained in the official court file were signed by the magistrate. Therefore, Monroe's claim that the magistrate never signed his paperwork is without merit. The court is attaching copies of these documents as Exhibit A to this Opinion for Monroe's benefit. Moreover, the police have the authority to make arrests without a warrant for felony offenses. 42 Pa.C.S. §8952; Pa.R.Crim.P. 502(2)(b). Since the offenses were felonies, the police had the authority to arrest Monroe without a warrant.

will not appoint counsel to represent him.

By The Court,



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Marc F. Lovecchio, Judge

cc: Kenneth Osokow, Esquire (ADA)  
Jerry Lynch, Esquire  
Anthony Monroe, KU 8828  
1 Kelley Drive, Coal Township, PA 17866  
Gary Weber, Esquire (Lycoming Reporter)  
Work file



# POLICE CRIMINAL COMPLAINT

File Number: <b>8-470-12</b>	Date Filed: <b>10/4/2012</b>	OTN/LiveScan Number: <b>T129604-6</b>	Complaint/Incident Number: <b>20122804</b>
First: <b>ANTHONY</b>	Middle: <b>ARRON</b>	Last: <b>MONROE</b>	

## AFFIDAVIT of PROBABLE CAUSE

In 9/27/2012 the Lycoming County Drug Task Force conducted an investigation into illegal narcotics trafficking.

This narcotics investigation involved a controlled buy of suspected Heroin that was made from Anthony Aaron Monroe, utilizing confidential informants, CI 4112-12 and CI 4113-12, herein referred to as "CI1 and CI2". I was present with both CI's, working in an undercover capacity, and observed the transaction.

On 10/4/2012 a controlled buy was organized. The controlled buy was arranged through phone number, 570-494-7011. The controlled buy included: (1) searching both CI's and their vehicle prior to the buy (search resulting in the absence of money or contraband on the person of the CI's or their vehicle); (2) providing the CI's with pre-recorded funds, \$420.00; (3) transporting the CI's to the location, at Funston Ave and King St; (4) I observed CI 1 hand Anthony Monroe the pre recorded buy money. I observed Monroe place several baggies of suspected heroin in the center cup holder; (5) I then returned to the police dept. with both CI's, where I took possession of 43 baggies of Heroin; (6) searching the CI's and their vehicle for the second time (discovering no contraband); (7) taking a statement from both CI's, who reported that CI 1 had purchased the heroin from Anthony Monroe.

A sample of the suspected Heroin from the incident was field-tested and it tested positive for the presence of Heroin.

Anthony Monroe was taken into custody by police after a brief foot pursuit. Monroe was observed tearing up US currency. The pre recorded buy money was recovered from Monroe.

I respectfully request a warrant be issued for Anthony Aaron Monroe, charging him with the offenses listed in the attached complaint.

I, PTRLM, ROBERT COCHRAN, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*[Signature]*  
(Signature of Affiant)

Sworn to me and subscribed before me this 4 day of October 2012

Date [Signature], Magisterial District Judge

My commission expires first Monday of January, 2018





# POLICE CRIMINAL COMPLAINT

Docket Number: <b>CP-41-12</b>	Date Filed: <b>10/4/2012</b>	OTN/LiveScan Number: <b>T129604-6</b>	Complaint/Incident Number: <b>20122804</b>
First: <b>ANTHONY</b>		Middle: <b>ARRON</b>	Last: <b>MONROE</b>

2. I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.

3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief.

This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C. S. 4904) relating to

4. This complaint consists of the preceding page(s) numbers through

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

PTRLM. ROBERT COCHRAN

10/4/2012  
(Date)

*[Signature]*  
(Signature of Affiant)

AND NOW, on this date Oct 4, 2012 I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued

29-3-03  
(Magisterial District Court Number)

*[Signature]*  
(Issuing Authority)





# POLICE CRIMINAL COMPLAINT

Complaint Number: <u>387-12</u>	Date Filed: <u>11</u>	OTN/LiveScan Number	Complaint/Incident Number <u>11-14769</u>
Defendant Name	First: <u>ANTHONY</u>	Middle: <u>AARON</u>	Last: <u>MONROE</u>

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered 1 through 3.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.  
**Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)**

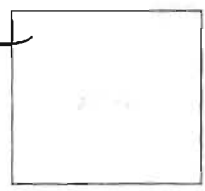
\_\_\_\_\_ 8-28-12 \_\_\_\_\_  
 (Date)

  
 \_\_\_\_\_  
 (Signature of Affiant)

AND NOW, on this date 8-28-12 I certify that the complaint has been properly completed and verified.  
 An affidavit of probable cause must be completed before a warrant can be issued.

29-1-01  
 Magisterial District Court Number)

  
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 (Issuing Authority)





# POLICE CRIMINAL COMPLAINT

Number: <u>387-12</u>	Date Filed: <u>1/1</u>	OTN/LiveScan Number	Complaint/Incident Number <u>11-14769 (BN-40221-11T)</u>
Defendant Name:	First: <u>ANTHONY</u>	Middle: <u>AARON</u>	Last: <u>MONROE</u>

## AFFIDAVIT of PROBABLE CAUSE

On this 28<sup>th</sup> day of August, 2012, personally appeared before me the subscriber, one of the District Judges in and for said County duly authorized to administer oaths, Police Officer Edward Lucas who being duly sworn according to law, doth depose and say that:

This drug investigation involving Anthony MONROE includes one Controlled Buy of Heroin purchased by Lycoming County Drug Task Force Confidential Informant #4006-12 directly from Anthony MONROE (Defendant) as follows:

This Controlled buy on March 21, 2012, included: (1) Searching the CI prior to the buy finding no money or contraband; (2) Providing CI with \$150.00 pre-recorded buy-money; (3) CI calling DEFENDANT at cell-phone number (570)494-7011 to arrange the purchase of Heroin. DEFENDANT answering the phone and agreeing to sell to the CI the Heroin. Through a series of additional phone calls the DEFENDANT directed the CI to meet him in the 600 block of Arch Street, Williamsport, Pennsylvania; (4) Police Officer transporting CI to this area where CI exits the Under-Cover (UC) Police vehicle – while under constant surveillance – met with the DEFENDANT who delivered twelve bags of suspected Heroin in exchange for the \$150 pre-recorded buy money; (5) CI returning to and re-entering the UC vehicle and immediately handing to the Police Officer the twelve bags of suspected Heroin; (6) A subsequent field test resulted in positive for the presence of Heroin; (7) Again, searching the CI finding no money or contraband; (7) CI providing a verbal and written statement corroborating the events of this Controlled buy.

Based on information received from mature persons, and/or investigation conducted, I request a Warrant of Arrest be issued for the Defendant, ANTHONY AARON MONROE, so that he may answer to the charges annotated on the accompanying Criminal Complaint.

I, OFFICER ED LUCAS, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

  
(Signature of Affiant)

Sworn to me and subscribed before me this 28 day of August 2012  
8.28.12 Date James G. Carn Magisterial District Judge

My commission expires first Monday of January, 2016

