

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

COMMONWEALTH OF PENNSYLVANIA	:	CR-1450-2014
	:	CR-1498-2014
v.	:	CR-395-2015
	:	CR-401-2015
JOHN A. DRUMMOND,	:	
Defendant	:	AMEND DISMISSAL

OPINION AND ORDER

On June 1, 2016, this Court issued an Opinion and Order stating its intention to dismiss Defendant’s PCRA petition. On June 22, 2016, this court dismissed Defendant’s PCRA petition stating that it had not received an objection to that intent to dismiss; however, Defendant did file an objection to the intention to dismiss that was postmarked on June 16, 2016. The Court deems this filing as timely under the “prisoner mailbox rule”: a document is deemed filed when placed in the hands of the prison authorities for mailing. Commonwealth v. Wilson, 911 A.2d 942, 944 (Pa. Super. 2006).

In his objection to the intent to dismiss, the Defendant requests that he be given credit for the time he spent on intensive supervised bail. Defendant argues that the conditions of his bail stated that “you [Defendant] are still a Lycoming County inmate in jail”. The controlling case in whether time spent at home on electronic monitoring can count towards time served is Commonwealth v. Kyle, 874 A2d 12 (Pa. 2005). In Kyle, a defendant like Petitioner was sentenced to confinement by a Lycoming County Court of Common Pleas judge. Kyle argued successfully to the Superior Court that his time spent on intensive supervised bail in Lycoming County should be credited toward the part of his sentence that required confinement; however, the Pennsylvania Supreme Court reversed the Superior Court holding “that time spent on bail release subject to electronic monitoring, does not qualify as custody for purposes of Section 9760

credit against a sentence of incarceration.” Kyle at 20. As such, this Court is with no legal authority to give Petitioner credit for time on intensive supervised bail.

AND NOW, this _____ day of September, 2016, as the Court did receive a response to the proposed dismissal of the Defendant’s PCRA petition and as the court supplements its June 1, 2016, opinion and order *supra*, it is ORDERED and DIRECTED that the PCRA petition filed on January 27, 2016, is hereby DISMISSED.

The Defendant is hereby notified that he has the right to appeal from this order to the Pennsylvania Superior Court. The appeal is initiated by the filing of a Notice of Appeal with the Clerk of Courts at the Lycoming County Courthouse, with notice to the trial judge, the court reporter, and the prosecutor. The Notice of Appeal shall be in the form and have the content required by Rule 904 of the Rules of Appellate Procedure. The Notice of Appeal shall be filed within thirty (30) days after the entry of the order from which the appeal is taken. Pa.R.A.P. 903. If the Notice of Appeal is not filed in the office of the Clerk of Courts within the thirty (30) day time period, the Defendant may lose his right to appeal this order.

A copy of this order shall be mailed to the Defendant by certified mail, return receipt requested.

BY THE COURT,

Nancy L. Butts, President Judge

cc: John Andrew Drummond MH1912
SCI Chester
500 E. Fourth Street
Chester, PA 19013
DA