

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1541-2016  
:   
vs. : CRIMINAL DIVISION  
:   
:   
LONQUA HOWELL, : Notice of Intent to Dismiss 2<sup>nd</sup> PCRA  
Defendant :   
:

**OPINION AND ORDER**

This matter came before the court on Defendant Loniqua Howell’s petition to appeal nunc pro tunc, which the court must treat as a second Post Conviction Relief Act (PCRA) petition. The relevant facts follow.

On September 12, 2016, Defendant pled guilty to accidents involving damage to attended vehicle or property, a misdemeanor of the third degree; and driving under suspension (DUS), a summary offense. On that same date, the court sentenced Defendant to pay costs, restitution and a fine and to undergo 12 months’ probation under the supervision of the Lycoming County Adult Probation Office. Defendant immediately began serving her sentence.

As a result of these convictions, the Pennsylvania Department of Transportation(PennDOT) suspended Defendant’s license for an additional eighteen (18) months. See 75 Pa. C. S. §§ 1532(b), 1543(c). Defendant appealed her license suspensions. When she appeared for her license suspension appeal hearing, she realized that she needed to challenge her underlying convictions to get her license suspensions overturned. Thereafter, she filed a petition to appeal her convictions nunc pro tunc, which the court treated as her first PCRA petition.

In her first petition, Defendant alleged that her guilty pleas were not knowingly, voluntarily, or intelligently entered and her counsel was ineffective based on the fact that she was never advised by her counsel that her license would be suspended. As this was Defendant's first PCRA petition and she appeared to be indigent, the court appointed counsel to represent Defendant and directed counsel to file either an amended PCRA petition or a "no merit" letter pursuant to *Commonwealth v. Turner*, 544 A.2d 927 (Pa. 1988) and *Commonwealth v. Finley*, 550 A.2d 213 (Pa. Super. 1988).

Counsel obtained the transcript of Defendant's guilty plea and sentencing hearing on September 12, 2016, and then filed a motion to withdraw which included a *Turner/Finley* no merit letter. In his no merit letter, counsel explained to Defendant that her guilty pleas were knowingly, intelligently, and voluntarily entered and, as a matter of law, plea counsel was not required to advise her that her license would be suspended as a result of her convictions.

The court conducted an independent review of the record and also concluded that Defendant's petition lacked merit. The court gave Defendant notice of its intent to dismiss her petition without holding an evidentiary hearing. Defendant responded to the court's notice, but nothing contained therein changed the court's view that her petition lacked merit. Accordingly, in an order dated June 30, 2017 and docketed July 3, 2017, the court dismissed Defendant's first petition.

On August 17, 2017, Defendant filed her second petition. In her petition, Defendant alleges that she never received in the mail the court's order dismissing her petition, and she did not become aware of the decision until August 16, 2017. She asserts

that the Lycoming County Prothonotary/Clerk of Courts never sent the order to her by certified mail as the court directed in the order, and she seeks to have her appeal rights reinstated nunc pro tunc.

Unfortunately, even if everything Defendant alleges in her petition is correct, the court cannot grant her relief in this case.

To be eligible for relief, at the time relief is granted the petitioner must be “(i) currently serving a sentence of imprisonment, probation or parole for the crime; (ii) awaiting execution of a sentence of death; or (iii) serving a sentence which must expire before the person may commence serving the disputed sentence.” 42 Pa. C. S. §9543(a)(1). Defendant cannot satisfy this eligibility requirement, because she completed her sentence of probation on September 12, 2017.

**ORDER**

AND NOW, this \_\_\_ day of September 2017, upon review of the record and pursuant to Rule 907(1) of the Pennsylvania Rules of Criminal Procedure, the court finds that no purpose would be served by conducting a hearing in this matter; therefore, none will be scheduled and the parties are hereby notified of the court's intention to dismiss 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.

By The Court,

\_\_\_\_\_  
Marc F. Lovecchio, Judge

cc: Kenneth Osokow, Esquire (ADA)  
Loniqua Howell,  
317 Brandon Avenue, Williamsport PA 17701

Work file  
Gary Weber, Esquire (Lycoming Reporter)