

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH,

CR 711-2015; OTN T 643401-3

v.

ROGER GEIGER, JR.,
Defendant

PCRA RELIEF GRANTED

OPINION AND ORDER

Before the Court is Roger Geiger Jr.'s Petition for Post-Conviction Collateral Relief (PCRA), pursuant to 42 Pa. C.S.A. §§ 9541-9546, filed pro se, on September 11, 2017,¹ with an amended PCRA filed by appointed PCRA counsel on October 6, 2017. The Court held a conference on October 25, 2017, and set forth a briefing schedule which has expired. Upon an independent review of the record in this matter, and consideration of briefs submitted in this matter, the Court concludes that Mr. Geiger is entitled to PCRA relief from serving a constitutionally barred penalty in light of Commonwealth v. Muniz, 164 A.3d 1189 (Pa. 12017)(Petition for certiorari filed at (Oct. 13, 2017) (No.17-575)(Stay of remand of the record granted in light of petition for certiorari), which applies retroactively pursuant to Commonwealth v. Rivera-Figueroa, 2017 PA Super 359 (filed November 14, 2017).

Mr. Geiger is currently serving a sentence for failure to comply with registration of sexual offenders as required by 18 Pa. C.S.A. § 4915.1(a)(2). The Court imposed sentence on May 10, 2017 after Mr. Geiger entered a guilty plea to Count 2 under docket number CR 7110-2015. The factual basis for the plea was that Mr. Geiger failed to comply with the requirement to register within three days of his release from prison on or about November 21, 2014. Clearly Muniz supports this relief.

¹ Mr. Geiger had previously filed a pro se PCRA on or about July 13, 2016 which remained pending on September 11, 2017. The Court therefore treated the pro se filing on September 11, 2017 as an amended pro se petition.

ORDER

AND NOW this 28th day of **December, 2017**, for the foregoing reasons, it is ORDERED and DIRECTED that Mr. Roger Geiger Jr.'s PCRA is GRANTED and that Mr. Roger Geiger, Jr., shall be released from custody and incarceration for any sentence imposed under docket CR 711-2015 on \$30,000 unsecured bail pending the thirty (30) day appeal period and throughout any appeal taken by the Commonwealth, until further Order of Court. In light of the Commonwealth's apparent intention to appeal, Donald Martino, Esquire, remains Appointed as Counsel for Mr. Geiger.

BY THE COURT,

December 28, 2017
Date

Richard A. Gray, J.

cc: DA (KO)
Donald Martino, Esquire (for Mr. Geiger)
APO
Pennsylvania Board of Probation and Parole (re: Parole Number 702HV)
1101 South Front Street – Suite 5300, Harrisburg, Pa 17104-2510