

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1381-2016  
:   
vs. : CRIMINAL DIVISION  
:   
STEVEN REEM, : Opinion & Order Denying Counsel's  
Defendant : Motion to Withdraw and Directing Counsel  
: to File an Amended PCRA Petition  
: On Defendant's Behalf

**OPINION AND ORDER**

AND NOW, this 30<sup>th</sup> day of October 2017, upon review of the record, the court DENIES PCRA counsel's motion to withdraw and directs PCRA counsel to file an amended PCRA petition on Defendant's behalf on or before November 27, 2017. A conference is scheduled in this matter for November 29, 2017 at 8:30 a.m.

The court disagrees with counsel's conclusions that: (1) Defendant's guilty plea to possession with intent to deliver was knowing, intelligent, and voluntary; and (2) there is no requirement that his conditions of supervision relate to his rehabilitation or sentence.

While Defendant clearly admitted to growing marijuana, he expressly denied that he intended to deliver the marijuana to anyone else.<sup>1</sup> The court also imposed an additional one year of probation that was not listed as part of the plea agreement on the written guilty plea colloquy or stated by the attorneys as part of the plea agreement during the guilty plea hearing.

It is unclear from Defendant's PCRA petition whether he wishes to withdraw

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<sup>1</sup> The court acknowledges that the statutory subsection and the penalties for manufacturing a controlled substance are the same as those for possession with intent to deliver a controlled substance, but neither the Information nor the order were

his guilty plea or whether he simply wishes the order to be amended to reflect the offense as manufacturing a controlled substance as may have been discussed off the record by defense counsel and the District Attorney during the guilty plea hearing. See Transcript, August 22, 2016, at 17-18.

The court also notes that there are requirements that a defendant's conditions relate to his sentence or his rehabilitation. See 42 Pa. C.S. §§9754(b), 9755(d); *Commonwealth v. Dewey*, 57 A.2d 1267 (Pa. Super. 2012); *Commonwealth v. Houtz*, 982 A.2d 537 (Pa. Super. 2009). Unfortunately, Defendant does not specify what conditions he contends are not reasonably related to his rehabilitation.

The court agrees that Defendant's remaining claims lack merit and notes the following: (1) Defendant was not transferred to PRC shortly after his hearing and he lost wages because he did not post bail on his Clinton County charges and they were acting as a detainer until late April 2017; (2) the other charges against him in this case were dismissed and the docket reflects that they were dismissed (that is, the Commonwealth did not prosecute him further on those charges);<sup>2</sup> (3) the law does not require counsel to advise a defendant of the collateral consequences of his guilty plea such as the suspension of his driver's license, *Commonwealth v. Bell*, 96 A.3d 1005, 1019 (Pa. 2014) ("As operating privilege suspensions are collateral civil consequences, not criminal penalties, they do not violate a motorist's equal protection or due process rights, nor does a defendant in a criminal case need to be informed of the collateral consequences for his criminal conduct, as it does not constitute a portion of his or her punishment."); and (4) defense counsel appropriately

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amended to reflect manufacturing a controlled substance instead of possession with intent to deliver.

<sup>2</sup> There was no agreement that the remaining charges would be expunged (or removed) from his arrest record or his docket sheet.

advised Defendant that it was unlikely that the courts or a jury would believe that he was not a dealer when he possessed approximately 91 growing marijuana plants and 17 drying marijuana plants.

By The Court,

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Marc F. Lovecchio, Judge

cc: Kenneth Osokow, Esquire (ADA)  
Donald F. Martino, Esquire  
Steven Reem,  
942 McGill Hollow Road, Linden PA 17744  
Work file  
Gary Weber, Esquire (Lycoming Reporter)