

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

**COMMONWEALTH OF PENNSYLVANIA**

**v.**

**ROGER DALE GEIGER,  
Defendant**

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**CP-41-CR-0001898-2014**

**PCRA SECOND**

**OPINION AND ORDER**

On December 4, 2017, Defendant filed a Motion for Post Conviction Relief. Counsel was not assigned as this was Defendant's Second Petition for Post Conviction Relief. See Order Denying Post Conviction Relief Act Petition, 6/21/2017.

***Background***

On September 4, 1997, Roger Dale Geiger (Defendant) was convicted of Statutory Sexual Assault, Aggravated Assault and Indecent Assault under Docket Number CP-41-CR-0000865-1997. At the time of Defendant's conviction, registration requirements would have applied to him through Megan's Law I. See Subchapter H. Registration of Sexual Offenders in the Sentencing Code<sup>1</sup>. All provisions of Megan's Law I are no longer valid, either through Supreme Court decision (Commonwealth v. Williams, 733 A.2d 593 (Pa. 1999), or expiration and/or deletion by the Legislature.

Pennsylvania's Sex Offender Registration and Notification Act (SORNA)<sup>2</sup>, has been applied to Defendant and he has been charged in the above captioned docket number and in Docket Number CP-41-CR-0000711-2015, with Failure to Register.<sup>3</sup>

On December 28, 2017, the Honorable Richard A. Gray found that Defendant was currently serving a sentence for failure to comply with registration of sexual

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<sup>1</sup> 42 Pa.C.S. §§9791-9799.

<sup>2</sup> 42 Pa.C.S. §§9799.10-9799.41.

<sup>3</sup> 42 Pa.C.S. § 4915(a)(2)

offenders as required by 18 Pa.C.S. § 4915.1(a)(2), and that in light of Commonwealth v. Muniz, 164 A.3d 1189 (Pa. 2017) (certiorari denied January 22, 2018) which applies retroactively pursuant to Commonwealth v. Rivera-Figueroa, 174 A.3d 674 (Pa. Super. 2017), he was serving a constitutionally barred penalty. As such, Judge Gray ordered that Defendant be released from custody on unsecured bail pending the thirty day appeal period and throughout any appeal taken by the Commonwealth. As of this date the Commonwealth has taken no appeal and as such it appears that the Order of December 28, 2017 is final. Defendant was released from Lycoming County Prison on January 25, 2018.

## **Discussion**

Incarcerated defendants, or those on probation or parole for a crime, are eligible for relief under the PCRA when they have pled and proved by a preponderance of the evidence the following four components:

- 1) Defendant has been convicted of a crime under the laws of PA and is at the time relief is granted currently serving a sentence of imprisonment, probation or parole for the crime.
- 2) Conviction or sentence resulted from one or more of the following
  - i. A violation of the Constitution of this Commonwealth or the Constitution or laws of the United States which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.
  - ii. Ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.
  - iii. A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the petitioner to plead guilty and the petitioner is innocent.
  - iv. The improper obstruction by government officials of the

petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court.

- v. Deleted.
  - vi. The unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced.
  - vii. The imposition of a sentence greater than the lawful maximum.
  - viii. A proceeding in a tribunal without jurisdiction.
- 3) Allegation of the error has not been previously litigated or waived; and
  - 4) Failure to litigate the issue prior to or during trial, during unitary review or on direct appeal could not have been the result of any rational, strategic, or tactical decision by counsel.

42 Pa.C.S. § 9543 (eligibility for relief).

It appearing to the Court that the Defendant is no longer incarcerated under the above captioned docket number nor serving a sentence of probation and parole for the above captioned docket number he is unable to meet the first component required to merit collateral relief. As such, the Court finds no basis upon which to grant the Defendant's PCRA petition. Additionally, the Court finds that no purpose would be served by conducting any further hearing. As such, no further hearing will be scheduled. Pursuant to Pennsylvania Rule of Criminal Procedure 907(1), the parties are hereby notified of this Court's intention to deny the Defendant's PCRA Petition. The 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.

**ORDER**

**AND NOW**, this 2nd day of February, 2018, it hereby ORDERED and DIRECTED as follows:

The Defendant is notified that this Court intends to dismiss the Defendant's PCRA petition because he is no longer serving a sentence of confinement, probation or parole in Docket Number CR-1898-2014. The Court will dismiss the Defendant's petition unless the Defendant files an objection to that dismissal within twenty (20) days of date of this Order.

By the Court,

Nancy L. Butts, President Judge

cc: Roger Dale Geiger  
562 Pepper St.  
Muncy, PA 17756  
Ken Osokow, Esq. District Attorney  
President Judge Butts (work file)