

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :
 :
 vs. : No. CR-1477-1994
 :
 CHARLES SATTERFIELD, :
 Defendant :

OPINION AND ORDER

This matter came before the court on Petitioner Charles Satterfield’s Motion to Modify Sentence filed on August 21, 2017, which the court treated as a Post Conviction Relief Act (PCRA) petition.

By way of background, Petitioner was charged with rape, aggravated assault, simple assault, terroristic threats, recklessly endangering another person, unlawful restraint, possession of an instrument of crime, and kidnapping as a result of an incident that occurred on September 10, 1994. A jury found Petitioner guilty of these offenses on March 24, 1995. On July 28, 1995, Petitioner was sentenced to serve an aggregate term of 10 to 30 years’ incarceration in a state correctional institution. Petitioner appealed his convictions, but the Superior Court affirmed his judgment of sentence on or about August 13, 1996.

On May 4, 1998, Petitioner filed his first PCRA petition. On July 29, 1998, the Honorable Clinton W. Smith issued an Opinion and Order giving Petitioner notice of the court’s intent to dismiss his PCRA petition without holding an evidentiary hearing, but a final order dismissing the petition was never entered.

On November 2, 1999, Petitioner filed his second PCRA petition in which he asserted that trial counsel was ineffective for failing to present character evidence and PCRA

counsel was ineffective for failing to appeal the dismissal of his first PCRA petition. On July 23, 2001, Judge Smith issued an order indicating that the PCRA petition was “clearly untimely on its face[,] and neither the defendant nor his counsel have alleged that any of the exceptions to the one year deadline apply.” Judge Smith gave the defendant another forty-five days within which to file an amended petition addressing the timeliness issue, but if no petition was received Judge Smith indicated he would dismiss the petition. No amended petition was received within that deadline, but a final order also was not issued. Despite the appointment of new counsel for Petitioner in 2004 and in 2005, it appears that no further action was taken with respect to Petitioner’s second PCRA petition.

On August 21, 2017, Petitioner filed his motion to modify sentence, which the court treated as a PCRA petition. Petitioner requested the court to vacate all the portions of Petitioner’s sentence pertaining to SORNA registration. On November 1, 2017, the court issued an opinion and order giving Petitioner notice of the court’s intent to dismiss his petition as untimely. On November 15, 2017, Petitioner filed a motion to quash registration requirements/objection to dismissal. At this time, the Pennsylvania Superior Court issued its decision in *Commonwealth v. Rivera-Figueroa*, 174 A.3d 674 (Nov. 14, 2017). In *Rivera-Figueroa*, which involved a PCRA petition filed within one year of the date the judgment of sentence became final, the Superior Court held that “*Muniz* created a substantive rule that retroactively applies in the collateral context.” *Id.* at 678. On December 18, 2017, the court treated Petitioner’s filing as an objection to the court’s intent to dismiss his PCRA petition. In light of *Rivera-Figueroa*, the court appointed counsel in the interests of justice and

directed counsel to file either an amended petition or a Turner/Finley letter limited to the issue of jurisdiction. On March 15, 2018, the court gave counsel 30 days to file an amended petition or a motion to withdraw and a no merit letter due to the Superior Court's decision on February 20, 2018 in *Commonwealth v. Murphy*, 180 A.3d 402, 405-406 (Pa. Super. 2018), which held that *Rivera-Figueroa* does not apply to untimely PCRA petitions and the petitioner did not qualify for the "new constitutional right" exception because the Pennsylvania Supreme Court had not held that *Muniz* applied retroactively. On May 4, 2018, the court granted an extension to PCRA counsel. On June 15, 2018, counsel filed a no merit letter and a motion to withdraw based on *Murphy*.

While this PCRA petition was pending, however, the legislature amended Pennsylvania's sexual offender registration requirements in Act 10 of 2018 (February 21, 2018) and Act 29 of 2018 (June 12, 2018). These Acts were passed to address *Muniz* and other appellate court decisions regarding sexual offender registration and sexually violent predators (SVPs). With these amendments, only offenders who were convicted of sexually violent offense committed on or after December 20, 2012 are subject to SORNA's registration requirements. Individuals who are convicted of a sexually violent offense committed on or after April 22, 1996, and before December 20, 2012, are now required to register pursuant to Chapter 97 Subchapter I of the Judicial Code, 42 Pa. C.S. §9799.51 et seq. Individuals who committed sexually violent offenses before April 22, 1996 are no longer required to register. Petitioner's offense was committed on September 10, 1994. Therefore, the court will deny counsel's petition to withdraw.

ORDER

AND NOW, this ____ day of August 2018, the court denies counsel's petition to withdraw and directs counsel to file an amended PCRA petition/petition for declaratory relief on or before September 15, 2018. Counsel shall serve a copy of the petition on the Commonwealth and on the Pennsylvania State Police's Megan's Law unit. The Commonwealth and the Pennsylvania State Police shall file an answer to the petition on or before October 15, 2018. An argument on the amended petition is scheduled for **1:30 pm October 22, 2018 in Courtroom No. 1 of the Lycoming County Courthouse, Williamsport, PA 17701.**

By The Court,

Nancy L. Butts, President Judge

cc: District Attorney
Ryan Gardner, Esquire
Pennsylvania State Police Megan's Law Unit
1800 Elmerton Avenue, Harrisburg PA 17110
Work File