

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 :  
 v. : **CR-813-2017**  
 :  
 **CHESNEY WHEELER,** :  
 **Defendant** : **PCRA**

**OPINION AND ORDER**

On June 27, 2018, Counsel for the Defendant filed a Motion to Withdraw as Counsel along with a Motion to Dismiss pursuant to *Commonwealth v. Turner*, 544 A.2d 927 (Pa. 1988) and *Commonwealth v. Finley*, 550 A.2d 213 (Pa. Super. 1988). After an independent review of the entire record, the Court agrees with PCRA Counsel and finds that the Defendant has failed to raise any meritorious issues in her PCRA Petition, and her petition should be dismissed.

***Background***

Chesney Wheeler (Defendant) was charged with Abuse of a Corpse,<sup>1</sup> a misdemeanor of the second degree; Tampering with Physical Evidence,<sup>2</sup> a misdemeanor of the second degree; Obstruction of the Administration of Law,<sup>3</sup> a misdemeanor of the second degree; and Flight to Avoid Apprehension,<sup>4</sup> a misdemeanor of the second degree. On July 3, 2017, Defendant pled guilty to Abuse of a Corpse and Tampering with Physical Evidence. Pursuant to a negotiated plea agreement, this Court sentenced Defendant to twenty (20) months minimum to forty-eight (48) months maximum in a State Correctional Institution. No post-sentence motion or direct appeal was filed.

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<sup>1</sup> 18 Pa.C.S.A. § 5510.

<sup>2</sup> 18 Pa.C.S.A. § 4910(1).

<sup>3</sup> 18 Pa.C.S.A. § 5101.

<sup>4</sup> 18 Pa.C.S.A. § 5126(A).

The Defendant filed a timely *pro-se* PCRA Petition on April 9, 2018. Defendant's Petition stated that her counsel during her negotiated plea did not discuss with her the availability of RRRI, and instead advised her that RRRI was not an option in her case. Therefore, her plea agreement was not knowingly entered. Donald Martino, Esquire was appointed to represent Defendant. On June 27, 2018, Defendant's counsel filed a Motion to Withdraw as Counsel following the mailing of a *Turner/Finley* "No Merit Letter" to Defendant. A PCRA conference was held on August 7, 2018. After consideration, this Court agrees with Attorney Martino that Defendant failed to raise any meritorious issues in her PCRA Petition.

***Whether the guilty plea was knowingly, intelligently, and voluntarily entered into***

The Defendant contends that her counsel did not advise her properly of her plea agreement and therefore her guilty plea was knowingly entered into. Manifest injustice is required to withdraw guilty pleas which are requested after a sentence has been imposed. *Commonwealth v. Flick*, 802 A.2d 620, 623 (Pa. Super. 2002). Such a manifest injustice occurs when a plea is not tendered knowingly, intelligently, voluntarily, and understandingly. *Commonwealth v. Persinger*, 615 A.2d 1305 (Pa. 1992). It does not matter if the Defendant is pleased with the outcome of her decision to plead guilty as long as she did so knowingly, voluntarily, and intelligently. *Commonwealth v. Yager*, 685 A.2d 1000, 1004 (Pa. Super. 1996). Defendant must demonstrate "miscarriage of justice has taken place which no civilized society could tolerate, in order to be entitled to relief." *Commonwealth v. Allen*, 732 A.2d 582, 588 (Pa. 1999).

The minimum inquiry required of a trial court must include the following six areas: (1) Does the defendant understand the nature of the charges to which he is pleading guilty? (2) Is there a factual basis for the plea? (3) Does the defendant understand that he has a right to trial by jury? (4) Does the defendant understand that he is presumed innocent until he is found guilty? (5) Is the defendant aware of the permissible ranges of sentences and/or fines for the offenses charged? (6) Is the defendant aware that the judge is not

bound by the terms of any plea agreement tendered unless the judge accepts such agreement?

*Commonwealth v. Young*, 695 A.2d 414, 417 (Pa. Super. 1997). In *Yeomans*, the Superior Court further summarized:

In order for a guilty plea to be constitutionally valid, the guilty plea colloquy must affirmatively show that the defendant understood what the plea connoted and its consequences. This determination is to be made by examining the totality of the circumstances surrounding the entry of the plea. Thus, even though there is an omission or defect in the guilty plea colloquy, a plea of guilty will not be deemed invalid if the circumstances surrounding the entry of the plea disclose that the defendant had a full understanding of the nature and consequences of his plea and that he knowingly and voluntarily decided to enter the plea.

*Commonwealth v. Yoemans*, 24 A.3d 1044 (Pa. Super. 2011) (citing *Commonwealth v. Fluharty*, 632 A.2d 312, 314 (Pa. Super. 1993)).

A review of the transcripts from her guilty plea and sentencing hearing confirm that the Defendant did in fact enter into her plea knowingly, voluntarily, and intelligently. This Court informed Defendant of her right to withdraw her plea at any time and proceed to trial on multiple occasions and that she did not have to take the plea if she did not understand it or believed her charges could not be proven beyond a reasonable doubt by the Commonwealth. *See* N.T., 7/3/2017, p. 2-4, 14, 21-23, 26. Defendant, on the record, stated that she committed the crimes, for which she was pleading guilty, by after having a premature birth in her bathroom, cleaning up the evidence of the birth and then placing the stillborn child in a box in the back seat of a car and going to a Wilkes-Barre area hospital, where the child was discovered Wilkes-Barre police officers. *Id.* at 6-12. In addition, Defendant filled out a written guilty plea colloquy highlighting many of these factors in greater detail, to which she stated she understood. Defendant alleges that she was unaware of her potential eligibility for RRRI, yet the written guilty plea states “[w]aive R.R.R.I. and Boot Camp” and the waiver of RRRI was specifically addressed on three

separate occasions during the guilty plea and sentencing colloquy. N.T., 7/3/2017, p. 5, 38-39. According to Pennsylvania law, Defendant's guilty plea was entered knowingly, voluntarily, and intelligently.

There is no indication that Defendant was not aware of the RRRRI waiver stipulation in her negotiated guilty plea, as she alleges. The waiver of her right to RRRRI and Boot Camp was a consideration in her receiving the benefit of the bargain, her negotiated sentence. The record reflects that the Defendant's plea was intelligent, voluntary, and knowing and therefore her guilty plea will not be withdrawn and her sentence will not be reconsidered.

***Conclusion***

Based upon the foregoing, the Court finds no basis upon which to grant 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 15th day of August, 2018, it is hereby ORDERED and DIRECTED as follows:

1. Defendant is hereby notified pursuant to Pennsylvania Rule of Criminal Procedure No. 907(1), that it is the intention of the Court to dismiss her PCRA petition unless she files an objection to that dismissal within twenty (20) days of today's date.

2. The application for leave to withdraw appearance filed June 27, 2018, is hereby GRANTED and Donald Martino, Esq. may withdraw his appearance in the above captioned matter.
3. **Defendant Chesney Wheeler will be notified at the address below through means of certified mail.**

By the Court,

Nancy L. Butts, President Judge

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