



*Commonwealth v. Evans*, 866 A.2d 442, 446 (Pa. Super. 2005). This Court appointed Donald Martino, Esquire as Petitioner's attorney on February 5, 2019. On April 8, 2019, Petitioner's counsel filed a Motion to Withdraw as Counsel following a *Turner/Finley* "No Merit Letter." A PCRA conference was held on April 12, 2019. After consideration, this Court agrees with Attorney Martino that Petitioner has failed to raise any meritorious issues in her PCRA Petition.

***Whether the guilty plea was voluntary, knowing, and intelligent***

Petitioner wishes for a reduction in sentence in the form of RRRRI eligibility claiming she was not aware of the program at the time of entering into her guilty plea and sentencing. In a PCRA claim where a guilty plea was entered and honored by the sentencing judge, the Court is directed to look to whether the plea was knowingly, intelligently, and voluntarily entered into.

*Commonwealth v. Moury*, 992 A.2d 162, 175 (Pa. Super. 2010).

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 Petitioner 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). Petitioner must demonstrate a "miscarriage of justice . . . which no civilized society could tolerate, in order to be entitled to relief." *Commonwealth v. Allen*, 732 A.2d 582, 588 (Pa. 1999). A trial court must, at a minimum, evaluate the following six areas:

- (1) Does the Petitioner understand the nature of the charges to which he is pleading guilty?
- (2) Is there a factual basis for the plea?
- (3) Does the Petitioner understand that he has a right to trial by jury?
- (4) Does the Petitioner understand that he is presumed innocent until he is found guilty?
- (5) Is the Petitioner aware of the permissible ranges of sentences and/or fines for the offenses charged?
- (6) Is the Petitioner 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 Petitioner 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 Petitioner 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 of the guilty plea and sentencing hearings in this case confirms that Petitioner did in fact enter into her plea knowingly, voluntarily, and intelligently. This Court informed Petitioner of the right to a jury trial, the elements of the charges, to which she was pleading, and the maximum sentences and fines that may accompany those charges. N.T., 6/15/2018, p. 2-3, 10. The standard range of twelve (12) to eighteen (18) months for both charges was discussed at the guilty plea hearing and the factual basis for the underlying charges of the plea was placed on the record. *Id.* at 3, 7-9. The first page of the guilty plea colloquy shows that Petitioner was aware of the terms of her plea agreement, which was an open plea. Guilty Plea Colloquy 6/15/18, at 1. According to Pennsylvania law, Petitioner's guilty plea was entered knowingly, voluntarily, and intelligently.

Petitioner asks for RRRI eligibility and, although it is not addressed specifically at her guilty plea hearing or sentencing, it is clear that she is ineligible for the program. To be considered an "eligible offender" under RRRI an offender must not have "been found guilty of

or previously convicted of or adjudicated delinquent for or an attempt or conspiracy to commit a personal injury crime as defined under section 103 of the act of November 24, 1998.” 61 Pa. C. S. § 4503. One such conviction which makes an offender ineligible for RRRI is Robbery under 18 Pa. C.S. § 3701 *et seq.* See 18 Pa. C.S. § 11.103. Petitioner’s Presentence Investigation Report indicates she pled guilty to two counts of Robbery on September 26, 1989, in Scranton, Pennsylvania under two separate offense tracking numbers. These convictions make Petitioner ineligible for RRRI.

***Conclusion***

Based upon the foregoing, the Court finds no basis upon which to grant Petitioner’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 Petitioner’s PCRA Petition. Petitioner 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 17th day of April, 2019, it is hereby **ORDERED** and **DIRECTED** as follows:

1. Petitioner is hereby notified pursuant to Pennsylvania Rule of Criminal Procedure 907(1), that it is the intention of this 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 April 8, 2019, is hereby **GRANTED** and Donald Martino, Esq. may withdraw his appearance in the above captioned matter.
3. **Petitioner Paula Taylor will be notified at the address below through means of certified mail.**

By the Court,

Nancy L. Butts, President Judge

xc: DA  
Donald Martino, Esquire  
Paula Taylor #PB-5779  
SCI Muncy  
P.O. Box 180  
Muncy, PA 17756