

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

**COMMONWEALTH OF PENNSYLVANIA**

v.

**ANTHONY BREELAND,**  
**Petitioner**

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**CR-215-2018**

**PCRA/ WITHDRAWAL  
GRANTED**

**OPINION AND ORDER**

On January 10, 2020, Counsel for Anthony Breeland (Petitioner) filed a Petition to Withdraw from Representation of Post-Conviction Collateral Relief 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, this Court agrees with Post-Conviction Relief Act (PCRA) Counsel and finds that Petitioner has failed to raise any meritorious issues in his PCRA Petition, the Petition therefore should be dismissed.

***Background***

On August 30, 2019, Petitioner entered a negotiated guilty plea to one count of Criminal Use of a Communication Facility, 18 Pa. C.S. § 7512. That same day, Petitioner was sentenced pursuant to the plea agreement to a minimum of seven months and fifteen days and a maximum of fifteen months with a consecutive three year probation. Defendant was given credit for fifteen months and released that day to his detainer in Lehigh County. No subsequent Motions for Reconsideration or appeals were filed. Petitioner filed a Motion for Hearing to Withdraw Guilty Plea for New Evidence on October 14, 2019 alleging he did not commit the offenses and false information was used to arrest him. This Court appointed Trisha Hoover-Jasper, Esquire as Petitioner's attorney on October 30, 2019. On January 10, 2020, Attorney Hoover-Jasper filed a Petition to Withdraw from Representation of Post-Conviction Collateral Relief following a

*Turner/Finley* “No Merit Letter.” A PCRA conference was held on January 17, 2020. After consideration of the entire record, this Court agrees with Attorney Hoover-Jasper that Petitioner has failed to raise any meritorious issues in his PCRA Petition.

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

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 plea which is requested after a sentence has been imposed.

*Commonwealth v. Flick*, 802 A.2d 620, 623 (Pa. Super. 2002). Such a manifest injustice occurs only when a plea is not tendered knowingly, intelligently, voluntarily, and understandingly.

*Commonwealth v. Persinger*, 615 A.2d 1305, 1308 (Pa. 1992). It does not matter if Petitioner is pleased with the outcome of his decision to plead guilty as long as he 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, 1047 (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 hearing in this case confirms that Petitioner did in fact enter into his plea knowingly, voluntarily, and intelligently. This Court informed Petitioner of the nature of the charges to which he was pleading. N.T. 8/30/2019, at 2-3. Petitioner was asked questions to establish the factual basis for the underlying charges and he admitted to the elements of the charges to which he was pleading guilty. *Id.* at 4-5, 8. The Court informed Petitioner of his right to a jury trial and the maximum sentences and fines that accompanied his charges. *Id.* at 2-3, 7. Petitioner indicated that he went through the guilty plea colloquy with the assistance of an attorney, he stated that he answered truthfully, he had adequate time to consult with his attorney, it was his decision to plead guilty, and that he was not threatened, coerced, or forced into making his decision. *Id.* at 4-8. Petitioner contends that he did not commit the crime charged, but this contention is meritless based upon Petitioner admitting on the record to the factual underpinnings of the charge. *Id.* at 4-5, 8. Additionally, his guilty plea colloquy shows that Petitioner was aware that he committed a crime. Guilty Plea Colloquy 8/30/19, at 5. According to Pennsylvania law, Petitioner's guilty plea was entered knowingly, voluntarily, and intelligently.

### ***Conclusion***

Based on the foregoing, this 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 6<sup>th</sup> day of February, 2020, 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 his PCRA petition unless he files an objection to that dismissal within twenty (20) days of today's date.
2. The application for leave to withdraw appearance filed January 10, 2020, is hereby **GRANTED** and Trisha Hoover-Jasper, Esq. may withdraw her appearance in the above captioned matter.
3. **Petitioner will be notified at the address below through means of certified mail.**

By the Court,

Nancy L. Butts, President Judge

xc: DA  
Trisha Hoover-Jasper, Esquire  
Anthony Breeland  
531 W Greenleaf Street  
Allentown, PA 18102

NLB/kp