

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	CR-266-1986
	:	
v.	:	
	:	
JEFFREY HILL,	:	Writ of Quo Warranto/
Petitioner	:	Prohibition/Error

OPINION AND ORDER

AND NOW, this ____ day of September, 2020, by way of background, the above-captioned matter was assigned to this Court by Order of President Judge Nancy Butts dated July 27, 2020. President Judge Butts vacated her July 14, 2020 Order and recused herself from any substantive decision making in the matter.

This Court received the Order of President Judge Butts and two documents authored by Petitioner, the first dated July 7, 2020 and the second dated July 21, 2020, on or about August 24, 2020.

The July 7, 2020 document is titled “Writ of Quo Warranto/Prohibition/Error.” While it is admittedly difficult to comprehend Petitioner’s claims, the court will attempt to do so.

First, Petitioner claims that there was “systemic deliberate legal malpractice” related to his then court appointed counsel who deliberately discarded his appeal rights and was allegedly convicted by a jury for it in 1992. The court cannot discern whether Petitioner claims that he was convicted for it or that his court appointed counsel was convicted for it.

Next, Petitioner claims “systemic judicial criminal obstruction and oppression” again related to his appeal rights. Petitioner claims such obstruction and oppression with respect to his oral and written requests for an appeal following his sentencing in 1987 and an appeal or 1989 Post-Conviction Hearing Act Petition.

Next, Petitioner claims the “theft and destruction” of the court file/public record in this case by a visiting senior judge. Petitioner claims that the visiting senior judge placed on the record that “he was corrupt.” Petitioner claims that the senior judge put on the record that there was “nothing [petitioner] could do about it.” Petitioner claims that the visiting senior judge burned the files in the case in order that there could be no appellate review and no “new trials or reversals or remands.” He further claims what appear to be incidents of wrongdoing with respect to evidence. These claims allegedly relate to wrongdoing by then District Attorney Brett Feese, then Assistant District Attorney Ken Osokow, and then sitting Judge Robert Wollett.

Next, Petitioner claims that the Lycoming County Court is a racketeering criminal enterprise.

Next, Petitioner claims that with respect to Docket No. 86-10,167, District Attorney Feese beat up petitioner’s public defender, stole a tape recording of a February 20, 1986 preliminary hearing and that “the magistrate” doubled bail without justification and utilized “blatantly perjurious charges.” He argues alleged ineffectiveness against his public defender for failing to file a writ of habeas corpus and failing to request production of the stolen tape.

Petitioner next claims that he timely filed a PCRA petition in July of 1989 and was entitled to an appeal.

Petitioner next claims that the “in custody” requirement with respect to the Post-Conviction Relief Act is unconstitutional in violation of Article I, Sections 1 and 11 of the Pennsylvania Constitution.

Petitioner next claims that there was “judicial criminal misconduct obstruction and oppression” that cannot justify a “mootness excuse.”

Petitioner next claims that the “collateral consequences doctrine” has been nullified by “judicial criminal misconduct obstruction and oppression.”

Finally, Petitioner claims that his case is a “classic criminal justice rule of force and fraud” including “Republican dirty politics.” With respect to the July 21, 2020 document, it is entitled “Petitioner’s Writ of Quo Warranto/Prohibition/Error Memorandum of Law in response to President Judge Butts’ July 14, 2020 Order.” Because President Judge Butts has vacated that Order, this Court will not address said document.

While Petitioner fashions his petition as a “Writ of Quo Warranto/Prohibition/Error”, it is filed under a prior criminal docket and is apparently an alleged attack on his conviction and sentence. It is clearly a petition for collateral relief.

This Court must treat the petition as a petition for relief pursuant to Pennsylvania’s Post-Conviction Relief Act. A petition for collateral relief will generally be considered a PCRA petition if it raises issues cognizable under the PCRA. *Commonwealth v. Larkin*, 2020 PA Super 163, 2020 WL 3869710, *4 (July 9, 2020), citing *Commonwealth v. Taylor*, 65 A.3d 462, 465-66 (Pa. Super. 2013); see also *Commonwealth v. Peterkin*, 554 Pa. 547, 553, 722 A.2d 638, 640 (1998). Indeed, the PCRA is the sole means of obtaining collateral relief and encompasses all other common law and statutory remedies for the same purposes, including habeas corpus and coram nobis. 42 Pa. C.S.A. § 9542; *Commonwealth v. Koehler*, 229 A.3d 915, 929 (Pa. 2020); *Commonwealth v. Yarris*, 557 Pa. 12, 731 A.2d 581, 586 (1999).

Petitioner’s claims regarding ineffective assistance of counsel, improper obstruction by governmental officials, and a violation of the Constitution of this Commonwealth or the Constitution or laws of the United States are all cognizable under the PCRA. 42 Pa. C.S.A. § 9543(a)(2)(i),(ii), and (iv).

Petitioner, however, is not eligible for relief under the PCRA. Specifically, while he has been convicted of a crime under the laws of this Commonwealth, he is no longer serving a sentence of imprisonment, probation or parole for the crime. 42 Pa. C.S.A. § 9543(a)(1)(i). On September 25, 1987, the trial court sentenced Petitioner to a term of incarceration of six (6) to eighteen (18) months. By Opinion and Order of the Superior Court of Pennsylvania filed on March 10, 2003, the Superior Court affirmed the lower court's decision of May 10, 1994 determining that the petitioner was no longer incarcerated or on probation or parole for the offense which was the subject matter of the petition.

Due process does not require the legislature to continue to provide collateral review when the offender is no longer serving a sentence. *Commonwealth v. Turner*, 622 Pa. 313, 80 A.3d 754, 765-66 (2013), *cert. denied*, 134 S. Ct. 1771 (2014). As soon as a sentence is completed, a petitioner becomes ineligible for relief under the Post-Conviction Relief Act. *Commonwealth v. Tinsley*, 200 A.3d 104, 107 (Pa. Super. 2018).

Additionally, a Post-Conviction petitioner must demonstrate that the issues included in his petition have not been previously litigated or waived. *Commonwealth v. Crispell*, 193 A.3d 919 (Pa. Super. 2018); 42 Pa. C.S.A. § 9543 (a) (3). On May 22, 2001, Petitioner filed several documents with the Court of Common Pleas of Lycoming County including a writ of habeas corpus, a write of quo warranto, and writ of conspiracy. The court denied relief. Petitioner appealed and the Order denying relief was affirmed and jurisdiction was relinquished by Order of the Superior Court dated March 10, 2003.

In conclusion, it is evident to the court that the petitioner is not entitled to relief on his Writ and that it should be dismissed. However, Petitioner claims that the "in custody" or

“serving a sentence” provision of the PCRA is unconstitutional. Specifically, Petitioner claims that the requirement violates Article I, Sections 1 and 11 of the Pennsylvania Constitution.

Accordingly, the court will not dismiss Petitioner’s Writ at this time. Petitioner is GRANTED sixty (60) days from today’s date to file an Amended PCRA Petition setting forth the factual basis upon which he claims the PCRA provision at issue violates the Pennsylvania Constitution, the legal basis for such and case law in support of such. Petitioner must also set forth the factual basis and legal basis why his claims are not untimely, previously litigated,¹ or waived. 42 Pa. C.S. §§9544, 9545(b). Once the court receives the supplemental Petition, the court will review it and either enter an Order, request an Answer from the Commonwealth, direct that a hearing and argument be scheduled or proceed in another appropriate fashion.

Date: _____

By the Court,

Marc F. Lovecchio, Judge

cc: DA
Jeffrey Hill
306 South Washington St.
Muncy, PA 17756
Gary Weber, Esquire
Work File

¹It appear that Petitioner’s claims are substantially similar to the claims that he asserted in the various petitions he filed in 2001, which were denied by the trial court and affirmed on appeal. See *Commonwealth v. Hill*, 909 MDA 2002 (Pa. Super. March 10, 2003).