

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : **CR-534-2018**
:
v. :
:
TERRANCE HOPSON, : **PCRA/WITHDRAWAL**
Petitioner : **GRANTED**

OPINION AND ORDER

On November 25, 2019, Counsel for Terrance Hopson (Petitioner) filed a Motion to Withdraw as Counsel 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 is ineligible for relief. Therefore his petition shall be dismissed.

Background

On October 12, 2018, Petitioner pled guilty to Resisting Arrest. Petitioner was sentenced to a minimum of forty-five days and a maximum of ninety days, intended as a max-out sentence. No further motions or appeals were filed in Petitioner’s case. Petitioner then sent a letter to the Clerk of Courts requesting credit for time served, which this Court treated as a PCRA Petition pursuant to *Commonwealth v. Evans*, 866 A.2d 442, 445 (Pa. Super. 2005). Donald Martino, Esq., was assigned to represent Petitioner on October 9, 2019. Assigned counsel reviewed the letter and all documents pertaining to Petitioner’s guilty plea and sentencing prior to sending Petitioner a *Turner/Finley* letter and filing his Motion to Withdraw as Counsel.

Analysis

Before determining whether a petitioner is substantively entitled to relief, the petitioner must establish jurisdiction. *Commonwealth v. Robinson*, 837 A.2d 1157, 1161 (Pa. 2003). To be eligible for relief, a petitioner at the time relief is to be granted must be “currently serving a

sentence of imprisonment, probation or parole for the crime.” 42 Pa. C.S. § 9543(a)(1)(i). Such does not include a petitioner who is still required to pay costs and fines. *See Commonwealth v. Fisher*, 703 A.2d 714, 716 (Pa. Super. 1997). In the present case, Petitioner was granted credit for time served in the amount of seven days, leaving him with eighty-three days yet to be served. Petitioner began serving his sentence on September 11, 2019 and completed serving his sentence on December 3, 2019. As Petitioner is no longer serving his sentence, he is not entitled to relief pursuant to 42 Pa. C.S. § 9543(a)(1)(i).

Conclusion

Based upon the foregoing, the Court finds no basis upon which to grant Petitioner’s PCRA petition or to examine the substantive merits of his claim. 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 8th day of January, 2019, it is hereby **ORDERED** and **DIRECTED** as follows:

1. Petitioner is hereby notified pursuant to Pennsylvania Rule of Criminal Procedure No. 907(1), that it is the intention of the 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 November 25, 2019, is hereby **GRANTED** and Donald Martino, Esq. may withdraw his 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
Donald Martino, Esq.
Terrance Hopson
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NLB/kp