

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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| COMMONWEALTH          | : No. CR-319-2018                           |
|                       | :   |
| vs.                   | : Notice of Intent to Dismiss PCRA Petition |
|                       | : and Order Granting Counsel's Motion       |
| JAZIAH Q. STRICKLAND, | : to Withdraw                               |
| Defendant             | :   |

**OPINION AND ORDER**

This matter came before the court on a Post Conviction Relief Act (PCRA) petition filed by Jaziah Q. Strickland (Petitioner).

On January 17, 2018, police filed a criminal complaint against Petitioner, charging him with aggravated assault (attempt to cause serious bodily injury), a felony of the first degree, and related offenses. On March 22, 2019, Petitioner entered an open plea to this aggravated assault charge and the Commonwealth agreed to dismiss the remaining charges. Petitioner admitted that on January 17, 2018 he assault his pregnant girlfriend. He admitted that he punched her in the head several times and he kicked her in the body at least two or three times. Petitioner indicated that he did not remember all of the specifics because he was intoxicated on acid and Ecstasy.

On May 28, 2019, the court sentenced Petitioner to three to seven years' incarceration in a state correctional institution with credit for time served from January 17 2018 to May 27, 2019. The remaining charges were dismissed.

On June 6, 2019, Petitioner filed a motion for reconsideration of sentence. He asserted that, although the minimum sentence imposed was at the bottom of the standard sentencing guideline range of 36-48 months, the court failed to consider his rehabilitative needs. He further asserted that a state sentence, as opposed to a county sentence, inflicted

too severe a punishment in light of his ongoing mental health issues. He averred that he would lose custody and the chance to be a father to his child. The court denied this motion on June 11, 2019.

On June 25, 2019, Petitioner filed a notice of appeal. On January 2, 2020, this appeal was dismissed for failure to file a brief.<sup>1</sup>

On September 23, 2020, Petitioner filed a pro se PCRA petition in which he asserted that plea counsel was ineffective for not advising him of the defense of intoxication and thus unlawfully inducing his guilty plea. As this was Petitioner's first PCRA petition, the court appointed counsel and directed counsel to file either an amended PCRA petition or a *Turner/Finley* no merit letter. Counsel filed a no merit letter and a supplemental no merit letter.

To prevail on a claim that counsel was ineffective, a petitioner must plead and prove that: (1) the claim has arguable merit, (2) counsel lacked a reasonable basis for his act or omission; and (3) the petitioner suffered prejudice as a result. In this context, prejudice means but for counsel's act or omission there is a reasonable probability that that outcome of the proceedings would have been different.

After an independent review of the record, the court finds that the claim asserted in Petitioner's PCRA petition lacks merit.

Petitioner's sole claim is that plea counsel was ineffective for failing to advise him of the defense of intoxication. Petitioner asserts that he lacked the specific intent to seriously injure his girlfriend because he was high on acid and Ecstasy. If plea counsel had

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<sup>1</sup>The PCRA pleadings assert that a brief was not filed so that Petitioner could file a PCRA petition.

advised him of the defense of intoxication, he would not have pled guilty.

While Petitioner may have been high on acid and Ecstasy at the time of the offense, such is not a defense in his case.

Section 308 of the Crimes Code states:

Neither voluntary intoxication nor voluntary drugged condition is a defense to a criminal charge nor may evidence of such condition be introduced to negative the element of intent of the offense, except that evidence of such intoxication or drugged condition of the defendant may be offered by the defendant whenever it is relevant to reduce murder from a higher degree to a lower degree of murder.

18 Pa. C.S.A. §308. In other words, voluntary intoxication or voluntary drugged condition is only relevant and admissible with respect to the crime of murder. Since Petitioner was not charged with murder, intoxication was not a defense in this case. Even if Petitioner had not entered a guilty plea, he would not have been permitted to introduce evidence at trial that he was high on acid and Ecstasy at the time of the offense. Clearly, counsel was not ineffective in this case.

### **ORDER**

**AND NOW**, this \_\_\_ day of May 2021, upon review of the record and pursuant to Rule 907(1) of the Pennsylvania Rules of Criminal Procedure, the court notifies the parties the court's intent to dismiss Petitioner's PCRA petition without holding an evidentiary hearing. Petitioner may respond to this proposed dismissal within twenty (20) days of the date of this Order. If the court does not receive a response from Petitioner within that time, the court will enter an order dismissing the petition.

The court also grants PCRA counsel's motion to withdraw. Petitioner may

represent himself or hire private counsel.

By The Court,

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Marc F. Lovecchio, Judge

cc: Joseph Ruby, Esquire (ADA)  
Trisha Jasper, Esquire  
Jaziah Strickland, #NV9119  
SCI Camp Hill, PO Box 8837, 2500 Lisburn Road, Camp Hill PA 17001  
Work file