

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CR-1366-2020**  
 v. :  
 :  
 :  
 **JAMES LAMPLEY,** :  
 **Petitioner** : **PCRA/WITHDRAWAL**  
 : **GRANTED**

**OPINION AND ORDER**

On June 3, 2022, counsel for James Lampley (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 is not eligible for the requested relief. Therefore, the Petition shall be dismissed.

***Background***

On October 20, 2020, Petitioner was charged with Driving under the Influence: General Impairment, First Offense, Driving under the Influence: High Rate of Alcohol, First Offense, Unauthorized Transfer or Use of Registration, Carrying/Exhibiting a Driver’s License on Demand, Required Financial Responsibility, Driving on Roadways Laned for Traffic, Driving Vehicle at Safe Speed, Careless Driving, Accident Involving Damage to Unattended Vehicle or Property, Immediate Notice of Accident to Police Department, False Reports, and Possession of a Small Amount of Marijuana. On April 8, 2021, Petitioner was found guilty during a non-jury trial of all but two (2) offenses. Petitioner was sentenced by President Judge Nancy L. Butts on July 6, 2021 to various fines and a minimum of forty-eight (48) hours to six (6) months incarceration. At the time of sentencing, Petitioner indicated to the Court that he intended to file

an appeal. As a result, the Court ordered his sentence to be effective on September 1, 2021 if an appeal had not been filed at that time. Petitioner did not file any post-sentence motions or a direct appeal, nor did an attorney file on his behalf.

On February 28, 2022, Petitioner filed a *pro se* PCRA Petition asserting ineffective assistance of counsel for failure to file pre-trial motions. This Court then assigned Trisha Hoover-Jasper, Esq. to represent Petitioner on March 7, 2020. Assigned counsel reviewed the Petition as well as Petitioner's case file prior to sending Petitioner a *Turner/Finley* letter to Petitioner and filing her Petition to Withdraw from Representation of Post-Conviction Collateral Relief. After an independent review of the record, this Court agrees with Attorney Hoover-Jasper that Petitioner's PCRA Petition is ineligible for his requested relief.

In order to be eligible for PCRA relief,

The petitioner must plead and prove by a preponderance of the evidence all of the following:

- 1) That the petitioner has been convicted of a crime under the laws of this Commonwealth and is at the time relief is granted:
  - (i) currently serving a sentence of imprisonment, probation or parole for the crime;
  - (ii) awaiting execution of a sentence of death for the crime;
  - (iii) serving a sentence which must expire before the person may commence serving the disputed sentence; or
  - (iv) has completed a sentence of imprisonment, probation or parole for the crime and is seeking relief based upon DNA evidence obtained under section 9543.1(d) (relating to postconviction DNA testing).

42 Pa.C.S. § 9543(a)(1). As a result, petitioner is required to be “currently serving a sentence of imprisonment, probation or parole.” Commonwealth v. Ahlborn, 699 A.2d 718, 720 (Pa. 1997). “To grant relief at a time when appellant is not currently serving such a sentence would be to ignore the language of the statute.” Id. Petitioner remains incarcerated but on distinct and unrelated charges than the ones he appeals in the immediate petition. Additionally, no probation

violation or probation detainer exists in this particular case. As a result, Petitioner has already completed his sentence and is therefore not eligible for relief.

***Conclusion***

Based upon the foregoing, this 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 12th day of July, 2022, 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 August 6, 2021, 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, Esq.  
James Lampley c/o LCP