

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

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>CR-286-2018</b>
v.	:	
	:	
<b>RASHAWN LEE LOGAN, II,</b>	:	
<b>Petitioner</b>	:	<b>PCRA/WITHDRAWAL</b>
	:	<b>GRANTED</b>

**OPINION AND ORDER**

On May 4, 2022, counsel for Rashawn Logan, II (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 has failed to timely raise any meritorious issues in his PCRA Petition. Therefore, the Petition shall be dismissed.

***Background***

Petitioner was charged with two (2) counts of Robbery and numerous related offenses. Petitioner was initially represented by James Protasio until his arrest and incarceration. Petitioner was later represented by Matthew Welickovitch, Esquire, of the Lycoming County Public Defender’s Office during his guilty plea and sentencing. On July 30, 2020, Petitioner entered a counseled guilty plea to four (4) of the charges against him<sup>1</sup>. On February 4, 2021, Petitioner was originally sentenced by the court to twelve (12) to twenty-five (25) years of state incarceration. The court sua sponte reconsidered the sentence and on February 11, 2021, Petitioner was sentenced to an aggregate period of state incarceration of a minimum of eight (8) years and a maximum of sixteen (16) years. Petitioner did not file post-sentence motions or a direct appeal, nor did counsel file on his behalf. On April 12, 2021, Petitioner filed a *pro se* PCRA petition.

At the time of this filing, Jeana Longo, Esquire, was appointed to represent Petitioner. Attorney Longo filed a *Turner/Finley* letter on June 22, 2021 and sought leave of court to withdraw as Petitioner’s counsel. Upon Attorney Longo’s employment with the Lycoming County Public Defender’s Office, this

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<sup>1</sup> Petitioner plead to Robbery, Conspiracy to Robbery, Burglary resulting in Bodily Injury, and Aggravated Assault.

Court appointed Helen Stolinas, Esquire, on November 29, 2021. Assigned counsel reviewed the Petition, Petitioner's case file, and attempted to correspond with Mr. Protasio. After an independent review of the record, this Court agrees with Attorney Stolinas that, although Petitioner's PCRA Petition is timely, the issues raised are without merit and the relief request must be denied.

### *Analysis*

Petitioner asserts ineffective assistance of counsel as the basis for relief pursuant to the PCRA. To be eligible for relief under the PCRA, a petitioner must plead and prove by a preponderance of the evidence that his conviction or sentence resulted from one or more of the seven, specifically enumerated circumstances listed in the PCRA. 42 Pa. C.S.A. § 9543(a)(2). One such circumstance is the ineffective assistance of counsel which, "in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place." 42 Pa. C.S.A. § 9543(a)(2)(ii). Counsel is presumed to be effective and the burden of demonstrating ineffectiveness rests on the petitioner. Commonwealth v. Rivera, 10 A.3d 1276, 1279 (Pa. Super. 2010). In order to prevail on a claim of ineffective assistance, a petitioner must plead and prove by a preponderance of the evidence that: (1) the claim has arguable merit; (2) counsel lacked any reasonable basis for the action or inaction; and (3) the petitioner suffered prejudice as a result. Commonwealth v. Diaz, 226 A.3d 995, 1007 (Pa. 2020); Commonwealth v. Miller, 231 A.3d 981, 991 (Pa. Super. 2020).

A failure to establish any one of the prongs warrants a denial of the ineffectiveness claim. Commonwealth v. Harper, 230 A.3d 1231, 1236 (Pa. Super. 2020) (citing Commonwealth v. Becker, 192 A.3d 106, 113 (Pa. Super. 2018), *appeal denied*, 200 A.3d 11 (Pa. 2019)). The court need not analyze the elements of an ineffectiveness claim in any particular order; if a claim fails under any prong of the ineffectiveness test, the court may proceed to that element first. Commonwealth v. Supulveda, 55 A.3d 1108, 1117-18 (Pa. 2012). Counsel's assistance is deemed constitutionally effective once the court determines that the petitioner has not established any one of the prongs of the ineffectiveness test. Commonwealth v. Rolan, 964 A.2d 398, 406 (Pa. Super. 2008).

Petitioner claims that Mr. Protasio failed to provide effective counsel while incarcerated and facing his own legal troubles. Petitioner contends that he went months without representation and had no assistance in his case following the arrest of Mr. Protasio. In the *Turner/Finley* letter, Attorney Stolinas indicated that she spoke with Petitioner about this issue and Petitioner indicated that while he and Mr. Protasio were incarcerated, Mr. Protasio informed Petitioner that he had worked out an offer for Petitioner that encompassed his own criminal case as well as Petitioner's. This alleged deal would be for Petitioner to plead guilty and receive five (5) to fifteen (15) years. However, Petitioner never informed Attorney Welickovitch of this offer upon taking over representation of Petitioner. Additionally, the transcripts of the guilty plea and sentencing hearings do not reference such a deal. A dual sentencing arrangement such as this would have been highly unusual and inappropriate and nothing in the record supports this assertion. Moreover, Petitioner was prosecuted by the District Attorney of Lycoming County and Mr. Protasio was prosecuted by the Attorney General's Office. This particular fact makes it even less likely that a package deal for sentencing was agreed upon.

Petitioner also received new counsel several months prior to entering his guilty plea. The Court also held a hearing on a motion for Attorney Welickovitch to be replaced as counsel, but ultimately dismissed this motion. At the time of Petitioner's guilty plea, he notified the court that he was satisfied with Attorney Welickovitch's representation and that Petitioner had not been coerced into pleading guilty. As a result, this Court believes that Petitioner has failed to establish by a preponderance of the evidence that his claims have arguable merit or that he suffered prejudice as a result. The record is clear that, upon Mr. Protasio's arrest, counsel was appointed to represent Petitioner for months before Petitioner plead guilty and admitted to doing so without coercion from counsel. Therefore, this Court cannot agree that Petitioner received ineffective assistance of counsel and his PCRA Petition shall be denied.

### ***Conclusion***

Based upon 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 23rd day of August, 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 May 4, 2022, is hereby **GRANTED** and Helen Stolinas, 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  
Helen Stolinas, Esq.  
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