

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CR-1549-2018
	:
vs.	: CRIMINAL DIVISION
	:
	:
GREGORY JAMAR JONES,	: Notice of Intent to Dismiss PCRA
Defendant	: Without Holding An Evidentiary Hearing

**OPINION AND ORDER**

This matter came before the court on the Post Conviction Relief Act (PCRA) petition filed by Gregory Jamar Jones (“Jones”).

By way of background, Jones was charged with Possession With Intent to Deliver (PWID) -marijuana, possession of a controlled substance-marijuana, and possession of drug paraphernalia. On October 22, 2018, Jones entered a guilty plea to PWID-marijuana in exchanged for a sentence of 9 days’ time served to 18 months. On that same date, the court sentenced Jones in accordance with the plea agreement. The court gave Jones credit for time served from September 9, 2018 to September 18, 2018, and Jones was immediately paroled.

On March 27, 2023, Jones filed a PCRA petition. In his petition he asserted that he only signed a plea agreement because the attorney told him that he was pleading to simple possession, a misdemeanor. He never would have admitted to selling drugs. The amount of marijuana that was illegally retrieved from an illegal search and seizure doesn’t ever warrant the thought of a drug dealer. These charges are ruining his life. He can’t a job or housing help with these charges on his jacket.

After determining that Jones did not wish to represent himself, the court appointed counsel to represent Jones and directed PCRA counsel to file either an amended PCRA

petition or a no-merit letter. The court noted that the PCRA petition appeared to be untimely; therefore, any filing should address the timeliness of the petition.

On August 25, 2023, PCRA counsel filed a petition to withdraw that contained a no-merit letter, indicating that the petition was untimely, Jones was not eligible for relief because he completed his sentence, and the guilty plea colloquy showed that Jones was aware he was pleading guilty to PWID.

After an independent review of the record, the court agrees with PCRA counsel's assessment. The court finds that it lacks jurisdiction to hold an evidentiary hearing or to grant any relief to Jones because his petition is patently untimely and he completed his sentence in April of 2020.

For a PCRA Petition to be considered timely it must satisfy the following requirements:

(1) Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final, unless the petition alleges and the petitioner proves that:

(i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States;

(ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or

(iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.

42 Pa. C.S. § 9545(b)(1) (emphasis added). A petitioner must “affirmatively plead and prove” the exception, upon which he or she relies. *Commonwealth v. Taylor*, 933 A.2d 1035, 1039 (Pa. Super. 2007).

A judgment becomes final at the conclusion of direct review or at the expiration of time for seeking the review. 42 Pa. C.S.A. §9545(b)(3). Jones was sentenced on October 22, 2018. He did not file a post sentence motion or an appeal. Therefore, his judgment became final on or about November 21, 2018. To be considered timely, Jones had to file his petition by November 21, 2019, or plead facts to support one of the three statutory exceptions. He did neither. Although he checked the box on a form PCRA petition for the newly discovered facts exception, he did not allege any facts to support that exception. PCRA counsel tried to contact him, but he did not respond to her correspondence. Therefore, the court finds that the petition is untimely.

The court also finds that Jones is not eligible for relief because he has completed his sentence. The court sentenced Jones to 9 days to 18 months on October 22, 2018 and gave Jones credit for 9 days' time-served. Jones' parole supervision would have expired on or about April 13, 2020. The Act states that to be eligible for relief, the petitioner must plead and prove by a preponderance of the evidence 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 (relating to postconviction DNA testing).

42 Pa. C.S.A. §9543(a)(1). As none of these provisions apply, Jones is not eligible for relief under the PCRA.

**ORDER**

AND NOW, this 12<sup>th</sup> day of September 2023, upon review of the record and pursuant to Rule 907(1) of the Pennsylvania Rules of Criminal Procedure, as no purpose would be served by conducting any further hearing, none will be scheduled and the parties are hereby notified of this Court's intention to dismiss the Petition. Jones 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.

By The Court,

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Nancy L Butts, President Judge