

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

v.

**VINCENT F. IVEY,
Petitioner**

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CP-41-CR-1443-2022

**INTENT TO DISMISS
PCRA/ WITHDRAWAL
OF COUNSEL GRANTED**

OPINION AND ORDER

On November 7, 2025, Counsel for Vincent Ivey (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). A conference was scheduled and held on December 15, 2025.

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 raise any meritorious issues in his PCRA Petition regarding his guilty plea.

Background

On August 19, 2022 Petitioner was charged with two counts of Delivery of a Controlled Substance¹ and two counts of Criminal Use of a Communication Facility² for offenses allegedly occurring on March 17, 2022 and April 28, 2022. On March 8, 2024 Defendant pled to one count of Criminal Use of Communication Facility with a plea agreement for a sentence of a 1 to 2 years' incarceration. On September 17, 2024,³ he was sentenced by this court to the plea

¹ 35 Pa.C.S.A. §780-113(a)(30).

² 18 Pa.C.S.A. § 7512(a).

³ The court granted the Petitioner's request to defer his report date to the prison to October 1, 2024.

agreement with credit for time previously served from August 23, 2022 through November 18, 2022.

Petitioner filed a *pro se* Petition for Post Conviction Relief on September 16, 2025. In his prose petition Petitioner alleged that his attorney, Paul Petcavage⁴ was ineffective in that he failed to notify the court that the investigating officer made false statements and that the Commonwealth failed to provide discovery. Generally, he alleges that his attorneys disregarded his requests and wishes.

The court appointed Donald A. Martino, Esquire as Petitioner's attorney on September 25, 2025. On November 7, 2025, Attorney Martino filed a Petition to Withdraw from Representation of Post-Conviction Collateral Relief following a *Turner/Finley* "No Merit Letter." A PCRA conference was held on December 15, 2025.

Initially, the court notes that Petitioner has failed to comply with the pleading requirements for his PCRA. He does not state what the allegedly false statements were or what discovery was missing or how those "facts" would entitle him to relief. *See* Pa. R. Crim. P. 902(a)(11), (12), and (13). Furthermore, by pleading guilty he waived all claims and defenses that he had to the charges. *See Commonwealth v. Eisenberg*, 626 Pa. 512, 98 A.3d 1268, 1275 (2014)("upon entry of a guilty plea, a defendant waives all claims and defenses other than those sounding in the jurisdiction of the court, the validity of the plea, and what has been termed the "legality" of the sentence imposed"). Defendant was aware that he was waiving any defenses when he answered in the affirmative to Question 14 on the written guilty plea colloquy. He also was aware that he was waiving the right to file any pre-trial motions based on those alleged facts.

⁴ Petitioner pleads that the Public Defendant's Office at one point represented him but the court cannot find any entry of appearance for that office.

See Written Guilty Plea Colloquy, Question 15 a and b. Even if these defects did not exist, Petitioner would not be entitled to relief.

To prevail in a claim of ineffective assistance of counsel, a petitioner must overcome the presumption that counsel is effective by establishing all of the following three elements, as set forth in *Commonwealth v. Pierce*, 515 Pa. 153, 527 A.2d 973, 975–76 (1987): (1) the underlying legal claim has arguable merit; (2) counsel had no reasonable basis for his or her action or inaction; and (3) the petitioner suffered prejudice because of counsel's ineffectiveness. *Commonwealth v. Dennis*, 597 Pa. 159, 950 A.2d 945, 954 (2008).

Whether the guilty plea was voluntary, knowing, and intelligent

In a PCRA claim where a guilty plea was entered and honored by the sentencing judge, the court is directed to look to whether the plea was knowingly, intelligently, and voluntarily entered into. *Commonwealth v. Moury*, 992 A.2d 162, 175 (Pa. Super. 2010). Manifest injustice is required to withdraw guilty plea which is requested after a sentence has been imposed. *Commonwealth v. Flick*, 802 A.2d 620, 623 (Pa. Super. 2002). Such a manifest injustice occurs only when a plea is not tendered knowingly, intelligently, voluntarily, and understandingly. *Commonwealth v. Persinger*, 615 A.2d 1305, 1308 (Pa. 1992). It does not matter if Petitioner is pleased with the outcome of his decision to plead guilty as long as he did so knowingly, voluntarily, and intelligently. *Commonwealth v. Yager*, 685 A.2d 1000, 1004 (Pa. Super. 1996). Petitioner must demonstrate a “miscarriage of justice . . . which no civilized society could tolerate, in order to be entitled to relief.” *Commonwealth v. Allen*, 732 A.2d 582, 588 (Pa. 1999). A trial court must, at a minimum, evaluate the following six areas:

(1) Does the Petitioner understand the nature of the charges to which he is pleading guilty? (2) Is there a factual basis for the plea? (3) Does the Petitioner

understand that he has a right to trial by jury? (4) Does the Petitioner understand that he is presumed innocent until he is found guilty? (5) Is the Petitioner aware of the permissible ranges of sentences and/or fines for the offenses charged? (6) Is the Petitioner aware that the judge is not bound by the terms of any plea agreement tendered unless the judge accepts such agreement?

Commonwealth v. Young, 695 A.2d 414, 417 (Pa. Super. 1997).

In *Commonwealth v. Yeomans*, the Superior Court further summarized:

In order for a guilty plea to be constitutionally valid, the guilty plea colloquy must affirmatively show that the Petitioner understood what the plea connoted and its consequences. This determination is to be made by examining the totality of the circumstances surrounding the entry of the plea. Thus, even though there is an omission or defect in the guilty plea colloquy, a plea of guilty will not be deemed invalid if the circumstances surrounding the entry of the plea disclose that the Petitioner had a full understanding of the nature and consequences of his plea and that he knowingly and voluntarily decided to enter the plea.

24 A.3d 1044, 1047 (Pa. Super. 2011) (citing *Commonwealth v. Fluharty*, 632 A.2d 312, 314 (Pa. Super. 1993)).

The record reflects that the court evaluated these areas during the guilty plea hearing and the hearing was supplemented with a written colloquy. The court conducted an oral colloquy consistent with the requirements of Rule 590 of the Rule of Criminal Procedure. The court explained the nature of the charges to Petitioner, and Petitioner indicated that he understood the elements that the Commonwealth would have to prove if he proceeded to trial. *See* Guilty Plea Hearing, 03/08/24, at 3-4. Petitioner admitted a factual basis for the plea. *See id.* at 5. The court explained the right to a jury trial and the presumption of innocence to Petitioner, and he indicated that he understood these rights. *See id.* at 10. The court also explained and Petitioner understood the maximum sentences and fines for the offenses. *See id.* at 3-4. Petitioner indicated that he was not pressured to enter a guilty plea; that he was entering the plea of his own free will; and that it was his decision. *See id.* at 10. The court explained that the plea agreement was for 1 to 2 years'

incarceration and confirmed his understanding of the plea agreement. *See id.* at 4.

Petitioner was aware that the court was not bound by the plea agreement unless the court accepted it, but the court accepted the plea agreement and sentenced Petitioner in accordance with it. Written Guilty Plea Colloquy, Question 3; Guilty Plea Transcript, 3/8/2024, at 5. The only contradictory portion of the Petitioner's colloquy was that in his written colloquy on page 6 he indicated that his plea was not entered knowingly intelligently and voluntarily. Written Guilty Plea Colloquy, Question 36, yet in his oral colloquy with the court he indicates that it was. Guilty Plea Transcript, 3/8/2024 at 10.

With respect to Petitioner's assertion that his attorney disregarded his wishes and requests, the record belies that claim. In his written guilty plea colloquy, he indicated that his attorney "thoroughly discussed with him "all of the facts and circumstances surrounding the charges against him" and that he was "satisfied with his attorney's representation." Question 25, Written Guilty Plea Colloquy, 3/7/2024 at 5.

Conclusion

The court finds that the claims asserted in Petitioner's *pro se* PCRA petition lack merit and he is not entitled to relief as a matter of law, because the record reflects that his guilty plea was knowingly, intelligently and voluntarily entered and that Petitioner has not met his burden to prove his claims. Therefore, the court will give the parties notice of its intent to dismiss Petitioner's *pro se* petition without hold an evidentiary hearing.

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	CP-41-CR-1443-2022
	:	
v.	:	
	:	
	:	NOTICE OF INTENT TO
VINCENT FITGERALD IVEY	:	DISMISS PCRA CLAIMS
Petitioner	:	and ORDER
	:	GRANTING COUNSEL’S
	:	MOTION TO WITHDRAW

ORDER

AND NOW, this 26th day of December 2025, it is hereby **ORDERED** and **DIRECTED** as follows:

1. The court notifies the parties of its intent to dismiss the PCRA petition without holding an evidentiary hearing. Petitioner may respond to the notice of intent to dismiss within twenty (20) days. If Petitioner fails to file a response to this notice within twenty (20) days, the court will dismiss his petition.
2. The court grants PCRA counsel’s motion to withdraw. Petitioner may represent himself or hire private counsel, but the court will not appoint counsel to represent him any further in this matter.

By the Court,

Nancy L. Butts, President Judge

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Clerk of Courts
Jerri Rook

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