

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	CRIMINAL DIVISION
	:	PCRA
v.	:	NO. 840-2023
	:	
DEANINE RECTOR,	:	Notice of Intent to
Defendant	:	Dismiss Petition

OPINION

On April 23, 2025, counsel for Deanine Rector (Petitioner) filed a Petition to Withdraw from Representation 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 and appointed counsel’s application for leave to withdraw appearance shall be granted.

Background

On June 13, 2023, Petitioner was charged under the above-captioned information with one count of Aggravated Harassment by Prisoner, a felony of the third degree, in violation 18 Pa.C.S.A. Section 2703.1. On February 6, 2024, Petitioner appeared before this Court and entered a no contest plea to the single count charged. The Advisory Sentencing Guideline Range for Petitioner was a minimum sentence of twenty-one (21) to twenty-seven (27) months. Petitioner entered her plea in accordance with a plea agreement that provided she would receive a minimum sentence of six (6) months to a maximum of twelve (12) months. This Court accepted Petitioner’s no contest plea and sentenced her in accordance with the above plea agreement to a sentence of six (6) to twelve (12) months to run consecutive to the sentence she was currently serving State Correctional Institution—Muncy.

On March 10, 2025, Petitioner filed her pro se Post Conviction Relief Act Petition alleging that she received ineffective assistance of trial counsel and requested to withdraw her plea. On March 13, Donald Martino, Esquire, was appointed to represent Petitioner in this matter, and counsel was ordered to file an amended petition or *Turner/Finley* letter on or

before May 1, 2025. On April 2, 2025, PCRA counsel sent Petitioner a *Turner/Finley* letter detailing the extent of his review of Petitioner's case explaining why the issues she raised lacked merit. PCRA counsel gave Petitioner twenty (20) days to respond to his letter and provide further information regarding the claims set forth in her Petition. On April 21, 2025, Petitioner responded to counsel's letter, but the letter did not offer elucidating information to alter counsel's position that her petition lacked merit because her plea was entered knowingly, intelligently, and voluntarily, and her petition is untimely. On April 23, 2025, PCRA counsel filed a *Turner/Finley* letter and Motion for Leave to Withdraw as Counsel, based on PCRA counsel's determination that Petitioner's claims lack merit and her petition is untimely. A conference was held in this matter on May 21, 2025.

Analysis

a. Timeliness

Before analyzing the merits of the Petition, the Court must first determine whether the Petition was timely. A PCRA petition must be filed within one year of the date that the judgment of sentence becomes final. Title 42 Pa.C.S. §9545(b)(1). This time requirement is mandatory and jurisdictional in nature, and cannot be ignored by the courts to reach the merits of the petition. *Commonwealth v. Murray*, 753 A.2d 201, 203 (Pa. 2000). A judgment of sentence becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review. *42 Pa.C.S. §9545(b)(3)*.

Petitioner was sentenced in this matter on February 6, 2024. Petitioner did not file a post-sentence motion or direct appeal in this matter. Petitioner's judgment of sentence became final on March 6, 2024. Petitioner's PCRA petition was due to be filed no later than March 6, 2025. Petitioner filed her pro se PCRA petition on March 10, 2025. Thus, the subject Petition is untimely, and the Court does not have jurisdiction.

b. Petitioner's assertion that she received ineffective assistance of counsel lacks merit because the record indicates that her plea of no contest was entered knowingly, intelligently, and voluntarily.

It is well settled that counsel is presumed effective, and the defendant bears the burden of establishing counsel was ineffective. *Commonwealth v. Cooper*, 596 Pa. 119 (2007). To prevail on a claim of ineffective assistance of counsel, a defendant is required to establish that the underlying claim is of arguable merit, that counsel's actions had no reasonable basis designed to effectuate a defendant's interests, and that counsel's actions caused prejudice to a defendant's case. *Commonwealth v. Correa*, 664 A.2d 607 (Pa. Super. 1995). A petitioner's claim of ineffectiveness will fail if any of the three requirements list above is not established. *Commonwealth v. Pierce*, 786 A.2d 203 (Pa. 2001).

Pennsylvania has long held that a plea of nolo contendere (no contest) is treated the same as a guilty plea in terms of its particular effect upon a case. *Commonwealth v. Jackson*, 546 A.2d 105, 107 (Pa. Super. 1988). Thus, in reviewing the validity of a plea, the court is guided by the same principles in reviewing the validity of the plea. *Id.* A guilty plea is valid if it is given knowingly, voluntarily, and intelligently. *Commonwealth v. Rush*, 909 A.2d 805, 808 (Pa. Super. 2006), citing *Commonwealth v. Pollard*, 832 A.2d 517, 522 (Pa. Super. 2003). Guidelines to determine the validity of a plea were set forth in *Commonwealth v. Fluharty*, 632 A.2d 312 (Pa. Super. 1993), stating that:

In order for a guilty plea to be constitutionally valid, the guilty plea colloquy must affirmatively show that the defendant 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. [A] plea of guilty will not be deemed invalid if the circumstances surrounding the entry of the plea disclose that the defendant had a full understanding of the nature and consequences of his plea and that he knowingly and voluntarily decided to enter the plea.

The law presumes that a defendant who enters a guilty plea was aware of what he was doing and he alone bears the burden of proving the contrary. *Commonwealth v. Pollard*, 832 A.2d

523 (Pa. Super. 2003). “[W]here the record clearly demonstrates that a guilty plea colloquy was conducted, during which it became evident that the defendant understood the nature of the charges against him, the voluntariness of the plea is established.” *Commonwealth v. McCauley*, 797 A.2d 920, 922 (Pa. Super. 2001). Accordingly, a court accepting a defendant’s guilty plea must conduct an inquiry during the guilty plea colloquy on the record. *Commonwealth v. Pollard*, 832 A.2d 523 (Pa. Super. 2003). Under Pennsylvania Rule of Criminal Procedure 590, a court is required to confirm that, when pleading guilty, a defendant understands:

- (1) The nature of the charges to which he is pleading guilty;
- (2) That the defendant offers a factual basis for the plea;
- (3) That the defendant’s plea will result in his giving up the right to a trial by jury;
- (4) That the defendant is presumed innocent unless he pleads guilty;
- (5) That the defendant is aware of the permissible ranges of sentences and fines;
- (6) That the court is not bound by the terms of any plea agreement unless the court accepts the guilty plea.

Further, the law does not require that a Petitioner be fully satisfied with the outcome of her decision to plead guilty. *Commonwealth v. Pollard*, 832 A.2d 523, 524 (Pa. Super. 2003). The law only requires that a guilty plea be knowing, intelligent, and voluntary. *Id.*

Here, the Court looks first to the colloquy completed by Petitioner prior to entering her no contest plea. The cover page to the colloquy correctly lists the charge to which Petitioner entered a plea. (Written Plea Colloquy, 08/23/2023, page 1). Additionally, the cover sheet correctly lists the grading of the offense, the maximum term of incarceration, and the fine applying to the offense. (*Id.*) The colloquy cover sheet lists the correct offense gravity score for the offense, and Petitioner’s correct prior record score. (*Id.*) Counsel noted for Petitioner that the neither the offense gravity score nor her prior record score were used in the traditional sense in calculating the terms of her plea agreement considering the sentence

is below the advisory guidelines, and the agreement was reached because Petitioner was already incarcerated on another matter. (*Turner/Finley* Letter, 04/02/2025, page 4).

The colloquy cover sheet accurately sets forth the terms of the plea agreement as being for a sentence of state incarceration for a minimum of six (6) months and a maximum of twelve (12) months that will run consecutive to the sentence currently being served by Petitioner. (Written Plea Colloquy, 08/23/2023, page 1). Petitioner was sentence in accordance with the terms of the plea agreement. (Id).

Within the body of the written colloquy are questions that are relevant in ascertaining whether a defendant has entered the plea knowingly, intelligently, and voluntarily. Here, Question 21 asks whose decision it was to enter the plea, and Petitioner wrote “mine.” (Written Plea Colloquy, 08/23/2023, page 5). On page 6 of the colloquy, a series of questions are answered to ascertain whether a defendant is entering the plea of her own volition. Here, Petitioner answered each question in a manner that indicates she made the decision to enter the plea. Thus, a review of the written colloquy form indicates that Petitioner’s claim her no contest plea was not knowing, intelligent, and voluntary does not have merit under the requirements of the PCRA.

Next, the Court looks to the transcript of the plea hearing held on February 6, 2024. Pennsylvania Rules of Criminal Procedure, Rule 590 instructs a trial court to confirm the following information to ensure a plea is entered knowingly, intelligently, and voluntarily:

1. The nature of the charges to which he is pleading guilty;
2. That the defendant offers a factual basis for the plea;
3. That the defendant’s plea will result in his giving up the right to a trial by jury;
4. That the defendant is presumed innocent unless he pleads guilty;
5. That the defendant is aware of the permissible ranges of sentences and fines;
6. That the court is not bound by the terms of any plea agreement unless the court accepts the guilty plea.

Pa.R.Crim.P. 590; *Commonwealth v. Watson*, 835 A.2d 786 (Pa. Super. 2003); *Commonwealth v. Prendes*, 97 A.3d 337 (Pa. Super. 2014).

Failing to address any of the above six (6) factors results in a manifest injustice, and the court is directed to review the adequacy of the plea colloquy and the voluntariness thereof by evaluating the totality of the circumstances surrounding the entry of that plea. *Commonwealth v. Muhammad*, 794 A.2d 378 (Pa. Super. 2008). The transcript of the proceeding on February 6, 2024, establishes that this Court addressed the above factors and assessed the plea entered by Petitioner to be in a knowing, intelligent, and voluntary manner by Petitioner. (Transcript of Proceedings, 02/06/2024, pages 2-7). Petitioner also acknowledged facts sufficient to establish that Petitioner did commit the act charged. (Tr. at 7-8). The Court reviewed Petitioner's rights with her, and she acknowledged that she understands her rights and the terms of the plea agreement. (Tr. at 5). Regarding the terms of the plea agreement, Petitioner stated "[o]kay, I'll take it" when the agreement was explained to her. (Tr. at 5). Accordingly, the record, including the written colloquy, the plea portion, and the sentencing portion of the same date, amount to the conclusion that Petitioner's plea was knowing, intelligent, and voluntary. Thus, because the underlying claim that Petitioner received ineffective assistance of counsel because her plea was not knowing, intelligent, and voluntary is not of arguable merit, the Court need not proceed with analyzing whether Petitioner did receive ineffective assistance of counsel on any other basis.

Conclusion

Based upon the foregoing, this Court agrees with Attorney Donald Martino, Esquire, that Petitioner has raised no claims of merit and finds no basis upon which to grant Petitioner's PCRA Petition. Additionally, the Court finds that no purpose will be served by conducting a hearing. As such, no evidentiary 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.

Accordingly, the Court enters the following Order:

ORDER

AND NOW, this 23rd day of December, 2025, 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 her 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 is GRANTED Attorney Donald Martino is permitted to withdraw his appearance in this matter.**
3. **Petitioner will be notified at the address below through means of certified mail.**

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA; CA

Donald Martino, Esq.

Deanine Rector-OP1606; SCI Muncy 6454 PA-405, Muncy, PA 17756

Gary Weber, Esq.—Lycoming Reporter