

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

COMMONWEALTH OF PENNSYLVANIA	:	CRIMINAL DIVISION
	:	NO. CR-1576-2022
v.	:	CR-622-2022
	:	
TERRELL C. CRADLE,	:	Notice of Intent to
Petitioner	:	Dismiss PCRA Petition

OPINION

This matter was before the Court on July 21, 2025, on Petitioner’s Amended Post Conviction Collateral Relief Act (“PCRA”) Petition, filed on April 9, 2025, by and through Petitioner’s PCRA counsel, Brian Ulmer, Esquire.

Petitioner asserts grounds for relief pursuant to 42 Pa.C.S. Section 9501 *et seq.* asserting he received ineffective assistance of counsel resulting in a conviction and sentence in violation of his rights under the Sixth Amendment to the Federal Constitution, made applicable to this Commonwealth via the Fourteenth Amendment to the Federal Constitution, and Article One, Section Nine of the Pennsylvania Constitution, such that no reliable adjudication of guilt or innocence could have taken place.

Background

By way of further background, Petitioner was charged for incidents occurring on or around April 14, 2022. On February 16, 2024, Petitioner appeared before this Court for a guilty plea proceeding for both of the above-named dockets. Under Docket No. CR-622-2022, Petitioner entered a plea of guilty to the sole charge of Receiving Stolen Property, a felony of the second degree pursuant to 18 Pa.C.S. Section 3925(a). Under Docket No. CR-1576-2022¹, Petitioner entered a plea of guilty to Count Two—Aggravated Assault, Attempts

¹ Petitioner was charged by way of the Criminal Information under Docket No. 1576-2022 with one count each of Criminal Attempt—Criminal Homicide, felony of the first degree; Aggravated Assault—Attempts to Cause Serious Bodily Injury or Causes Injury with Extreme Indifference, felony of the first degree; Aggravated Assault—Attempts to Cause or Causes Bodily Injury with Deadly Weapon, felony of the second degree; Firearms not to be carried Without a License, felony of the third degree; Possession of a Weapon, a misdemeanor of the first degree; and Simple Assault, a misdemeanor of the second degree; two counts of Discharge of a Firearm into Occupied Structure, felony of the third degree; and four counts of Recklessly Endangering Another Person, misdemeanor of the second degree.

to Cause Serious Bodily Injury or Causes Injury with Extreme Indifference, a felony of the first degree, pursuant to Pa.C.S. Section 2702(a)(1). Petitioner was sentenced that same date to two (2) to four (4) years under Docket No. CR-622-2022 and four (4) to eight (8) years under Docket No. CR-1576-2022, with the latter period of incarceration running consecutive to the sentence imposed in CR-622-2022 for an aggregate period of state incarceration of five (5) to ten (10) years. No post sentence motion for relief or appeal was filed on Petitioner's behalf in this matter. Petitioner was represented by Eric Williams, Esquire, at the time of his guilty plea and sentencing proceedings.

Petitioner asserts that his sentences would have been reduced had the Court been more familiar with his background, and that the failure to compel the production of a pre-sentence investigation report or request for an explanation for the omission pursuant to Pa.R.Crim.P. Rule 702(a)(2) resulted in a conviction and sentence in violation of Petitioner's rights under the Sixth Amendment and as made applicable to this Commonwealth by the Fourteenth Amendment. Petitioner seeks to have the sentences vacated for resentencing or any other appropriate remedy.

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 16, 2024. Petitioner did not file a post-sentence motion or direct appeal in this matter. Petitioner's judgment of sentence became final on March 16, 2024. Petitioner's PCRA petition was due to be filed no later than

March 16, 2025. Petitioner filed his *pro se* PCRA petition on February 18, 2025. Thus, the subject Petition is timely, and the Court does have jurisdiction to evaluate Petitioner's claims.

b. Petitioner's Claim of Ineffective Assistance of Counsel

Petitioner asserts that trial counsel did not compel the production of a pre-sentence investigation report nor request an explanation for the omission pursuant to Pennsylvania Rules of Criminal Procedure, Rule 702(a)(2). As such, the conviction and sentences imposed resulted in a violation of Defendant's rights under the Sixth Amendment to the Federal Constitution, made applicable to this Commonwealth via the Fourteenth Amendment of the Federal Constitution, and Article One, Section Nine of the Constitution of the Commonwealth such that no reliable adjudication of guilt could have taken place. Petitioner asserts that he reasonably believes his sentences would have been reduced had the Court been more familiar with his background and mitigating factors.

At the conference on the Amended Petition, the Commonwealth argued that the Petitioner did not sufficiently prove the underlying claim has arguable merit nor did he demonstrate that the information likely to be produced in a PSI would have influenced the Court because no such information was provided in the pleading. The Commonwealth further argued that with the certifications provided in the pleading, Petitioner has not proved the outcome would have been different with a PSI for the Court's consideration at the time of sentencing. The Commonwealth also posited that there may have been a reasonable basis or strategic reasoning by trial counsel as to why the PSI was not requested for the purposes of sentencing, nonetheless, the pleading as submitted does not provide sufficient proof to contradict a reasonable basis or strategic reasoning.

Counsel is presumed to be effective, and the Petitioner bears the burden of proving otherwise. *Commonwealth v. Holloway*, 559 Pa. 258, 267 (2001). Under the Act, "an ineffectiveness claim may provide relief only where it 'so undermined the truth determining process that no reliable adjudication of guilt or innocence could have taken place.'" *Id* quoting, in part, 42 Pa.C.S. §9543(a)(2)(ii). "To obtain relief on a claim for ineffective assistance of counsel, [a petitioner] must establish that: (1) there is merit to the underlying

claim; (2) that counsel had no reasonable basis for his or her course of conduct; and (3) that there is a reasonable probability that, but for the act or omission challenged, the outcome of the proceeding would have been different. *Commonwealth v. Holloway*, 559 Pa. 258, 267 (2001). The failure by the Petitioner “to satisfy any one of the three prongs of the test for ineffectiveness requires rejection of the claim.” *Commonwealth v. Collins*, 957 A.2d 237, 244 (Pa. 2008).

In the case at bar, the Court need not delve deep into Petitioner’s argument for ineffective assistance of counsel. “Merely stating that there is something wrong with that counsel did, that his action violated the constitution and that it was not harmless error, does not meet the requirements of an ineffectiveness claim.” *Commonwealth v. Rivers*, 567 Pa. 239, 253 (2001). Rather, a petitioner “must state and demonstrate how [he] will prove by a preponderance of evidence ‘that counsel had no reasonable basis for his or her course of conduct.’” *Id* quoting *Commonwealth v. Holloway*, 559 Pa. 258, 267 (2001).

Here, Petitioner submitted the amended petition using boilerplate language of a claim of ineffectiveness under the Act. The Petition does not explain any further how it will be proved that trial counsel was ineffective at the sentencing stage and that such conduct prejudiced Petitioner. Notably, the amended PCRA petition merely alludes to ineffective assistance of counsel. Our Supreme Court has held that “boilerplate allegations and bald assertions of no reasonable and/or ensuing prejudice cannot satisfy a petitioner’s burden to prove that counsel was ineffective.” *Commonwealth v. Paddy*, 15 A.3d 431, 443 (Pa. 2011).

Nonetheless, the pre-sentence investigation report was waived by Petitioner following his plea and a finding that the plea was entered knowingly, intelligently, and voluntarily. *See*: Guilty Plea/Sentencing Transcript, 02/16/2024, at 6:24-25. Additionally, Petitioner provides no reason why the Court should find his waiver of the PSI to have been entered unknowingly or unintelligently.

Petitioner completed the written plea colloquy, and was subsequently sentenced following the waiver a PSI. A review of the written plea colloquy and the transcript reveal nothing to indicate that the Petitioner did not enter his plea in a knowing, intelligent, and

voluntary manner. Petitioner had a prior record score of zero (0). Petitioner entered a plea to receiving stolen property under docket no. CR-622-2022, and he was sentenced to one to two years in a State Correctional Institution. The maximum sentence is ten (10) years, and the charge has an offense gravity score of eight (8). Under docket no. CR-1576-2022, Petitioner entered a plea of guilty to aggravated assault, which has a maximum penalty of twenty (20) years and an offense gravity score of 11. Petitioner was sentenced to four (4) to eight (8) years under docket no. CR-1576-2022. Petitioner received an aggregate sentence of five (5) to ten (10) years. Additionally, Petitioner received credit for time served in the amount of 673 days.

Conclusion

The pre-sentence investigation report was waived by trial counsel in his representation of the Petitioner, and Petitioner did not sufficiently plead in his petition that the action or omission by trial counsel amounted to ineffective assistance of counsel nor did he even assert that the waiver of his PSI was not done knowingly, intelligently, and voluntarily. Thus, it is unnecessary for the Court to further analyze the merits of Petitioner's claim because Petitioner has failed to satisfy the first prong that his claim is of arguable merit.

Additionally, the Court finds that no purpose will be served by conducting a hearing². 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 dismiss 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:

² “[T]he right to an evidentiary hearing on a post-conviction petition is not absolute. It is within the PCRA court’s discretion to decline to hold a hearing if the petitioner’s claim is patently frivolous and has no support either in the record or other evidence. *Commonwealth v. Walls*, 993 A.2d 289, 295 (Pa.Super.2010); “If the PCRA court ‘can determine without an evidentiary hearing that one of the prongs cannot be met, then no purpose would be advanced by holding an evidentiary hearing.’” *Commonwealth v. Jones*, 942 A.2d 903, 906.

ORDER

AND NOW, this ____ day of **March, 2026**, 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. **Petitioner will be notified at the address below through means of certified mail.**

By the Court,

Ryan M. Tira, Judge

CC: DA; CA
Brian Ulmer, Esq.—23 North Derr Drive, Suite 3, Lewisburg, PA 17837
Terrell Cradle—QQ2473, SCI Smithfield—1120 Pike Street, Huntingdon, PA 16652
Gary Weber, Esq.—Lycoming Reporter
File—CR-622-2022