

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

COMMONWEALTH OF PENNSYLVANIA	:	CRIMINAL DIVISION
	:	NO. 366-2024
v.	:	
	:	
TATE HAMM,	:	PCRA
Petitioner	:	

OPINION

This matter was before the Court for a status conference on July 14, 2025, on the Amended Post Conviction Relief (PCRA) Petition filed on May 1, 2025, on behalf of Petitioner, Tate Hamm, by and through his PCRA counsel, Brian Ulmer, Esquire.

Petitioner asserts grounds for relief pursuant to 42 Pa.C.S.A. Section 9501 *et. seq.* asserting, he received an a conviction and sentence in violation of his rights under the Sixth Amendment of the United States Constitution made applicable to this Commonwealth through the Fourteenth Amendment to the Constitution, and Article One, Section Nine of the Pennsylvania Constitution.

Background

By way of further background, Petitioner was charged on or around December 23, 2024, under the above-captioned information with Count 1, Accident Involving Damage Attended Vehicle/Property¹, a misdemeanor of the third degree; Count 2, Driving While Operating Privilege Suspended or Revoked², a summary; Count 3, Driving at Safe Speed³, a summary; and Count 4, Operating Vehicle without Valid Inspection⁴, a summary.

Petitioner entered a plea of guilty on January 13, 2025, to Count One, Accident Involving Damage Attended Vehicle/Property⁵, a misdemeanor of the third degree. That same day Petitioner received his sentence which included one year of probation. Petitioner

¹ 75 Pa.C.S. §3743(a).

² 75 Pa.C.S. §1543(a).

³ 75 Pa.C.S. §3361.

⁴ 75 Pa.C.S. §4703.

⁵ 75 Pa.C.S. §3743(a).

later received a suspension of his driver's license. Petitioner asserts that he reasonably believed that his sentence would not include a suspension of his driver's license because he was specifically informed that he "would not lose his license longer with the guilty plea." Alyssa Fenoy, Esquire, represented Petitioner at his plea and sentencing. No post-sentence motion for relief or appeal were pursued on Petitioner's behalf.

On February 28, 2025, Petitioner filed his *pro se* petition alleging that he entered a plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the Petitioner to plead guilty and the Petitioner is innocent. On March 13, 2025, Brian Ulmer, 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 May 1, 2025, counsel filed an amended petition. A conference occurred in this matter on May 21, 2025.

In his amended Petition, Petitioner asserts that the conviction and sentence resulted from a 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 Constitution of the Commonwealth such that no reliable adjudication of guilt or innocence could have taken place. Petitioner seeks to have his current sentence vacated and requests to be resentenced so that he does not receive a suspension of his license.

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 January 13, 2025. Petitioner did not file a post-sentence motion or direct appeal in this matter. Petitioner's judgment of sentence became final on February 13, 2025. Petitioner's PCRA petition was due to be filed no later than February 13, 2026. Petitioner filed his *pro se* PCRA petition on February 28, 2025. Thus, the subject Petition is timely, and the Court does have jurisdiction to evaluate Petitioner's claims.

b. Petitioner's claim that his conviction and sentence Violate his Rights under the Sixth Amendment to the United States Constitution and Article One, Section Nine of the Constitution of this Commonwealth such that no reliable adjudication of guilt or innocence could have taken place is not sufficiently developed to find the claim meritorious.

Neither Petitioner's *pro se* petition nor his counseled Petition adequately fleshed out the particular argument that was being made, and the record is clear that license suspension was not ordered in the January 13, 2025, Sentencing Order. Broadly, to be eligible for relief, petitioners must, *inter alia*, plead and prove their assertions by a preponderance of the evidence⁶. "Inherent in this pleading and proof requirement is that the petitioner must not only state what his issues are, but also he must demonstrate in his pleadings and briefs how the issues will be proved⁷." "Moreover, allegations of constitutional violation or of ineffectiveness of counsel must be discussed 'in the circumstances of the case'⁸."

Preliminarily, Petitioner's constitutional claim necessarily fails because "legislative enactment is presumed to be constitutional and will not be declared unconstitutional unless it clearly, palpably, and plainly violates the Constitution⁹." The party challenging the constitutionality of a statute has a heavy burden of persuasion¹⁰. Neither the amended petition nor any argument made at the conference meet the burden on Petitioner to prove that

⁶ 42 Pa.C.S. §9543(a).

⁷ *Commonwealth v. Rivers*, 567 Pa. 239, 245 (2001).

⁸ *Id* citing 42 Pa.C.S. §9543(a)(2)(i-ii).

⁹ *Commonwealth v. Mockaitis*, 575 Pa. 5, 11 (2003) quoting *PennDOT v. McCafferty*, 563 Pa. 14 [6], 758 A.2d 1155, 1160 (2000)(other citations omitted).

¹⁰ *Id* at 20.

his conviction and sentence are in violation of his rights under the United States Constitution or Article One, Section Nine of the Constitution of this Commonwealth. Moreover, the Court does not find the statute requiring the Pennsylvania Department of Transportation to suspend operating privileges for motorists convicted of specific offenses “clearly, plainly, and palpably” violative of either the Federal or State Constitutions. Thus, the subject Petition fails on his constitutional claim.

Regarding Petitioner’s issue that his plea was unlawfully induced and his sentence is incorrect, “[c]ourts of this Commonwealth have consistently recognized that a license suspension is a collateral civil consequence of a criminal conviction.¹¹” A consequence is characterized as civil where, “the imposition has been vested in an administrative agency over which the criminal judge has no control and for which he had no responsibility¹². The Pennsylvania Supreme Court has also recognized that “the collateral consequences of pleading guilty are ‘numerous,¹³’” including: loss of the right to vote, U.S. Const. amend. XIV, §2; eligibility to enlist in the armed services, 10 U.S.C.A. §504; loss of the right to own a firearm, 18 Pa.C.S.A. §6105; loss of the right to inherit property, 20 Pa.C.S.A. §§8802-11; and eligibility to practice a particular profession, *e.g.*, 63 Pa.C.S.A. §479.11(a) (funeral director); 63 Pa.C.S.A. §34.19(a)(8) (architect).¹⁴

Additionally, the sentencing statutes, 42 Pa.C.S. Sections 9701-9781, do not authorize criminal courts to impose the suspension of operating privilege as a penalty for a criminal conviction¹⁵. “Pennsylvania’s Motor Vehicle Code sets forth a statutory scheme which requires the executive branch of government to issue and regulate motor vehicle licenses.¹⁶” The legislature directed that the Pennsylvania Department of Transportation (an executive agency) to issue driver’s license, maintain records regarding drivers, accept surrender of a

¹¹ *Commonwealth v. Duffey*, 536 Pa. 436, 440 (1994).

¹² *Id* at 442, quoting *Brewster v. Department of Transportation*, 94 Pa. Commw. 277, 280, 503 A.2d 497, 498 (1986).

¹³ *Id* citing *Commonwealth v. Frometa*, 520 Pa. 552 (1989).

¹⁴ *See: Frometa*, 520 Pa. at 556 n.1.

¹⁵ *Commonwealth v. Duffey*, 536 Pa. 436, 441 (1994).

¹⁶ *Commonwealth v. Mockaitis*, 575 Pa. 5, 11 (2003).

license, and complete various functions relative to driver's licenses within this Commonwealth. Under 75 Pa.C.S. Section 1531, the Vehicle Code specifically states:

The department¹⁷ shall administer an integrated system limited to the authority granted to the department in this title for revocation and suspension of operating privileges and for driver education....

Under this statutory scheme, courts play a minimal role in controlling the status of a motorist's operating privileges. The judiciary determines whether an individual committed an offense which may subsequently impact his operating privilege¹⁸. Notwithstanding, the court's role is limited to determining guilt, thereafter consequences are civil rather than criminal penalties¹⁹. Thus, "actual imposition of a license suspension 'has been vested in an administrative agency over which the criminal judge has no control and for which he has no responsibility²⁰.'"

Petitioner's complaint stems from the suspension of his driver's license following his conviction and sentence from January 13, 2025. However, this Court did not sentence Petitioner to a period of license suspension in its Order dated January 13, 2025. The license suspension followed the conviction pursuant to 75 Pa.C.S. Section 1532(b)(1) which provides that:

The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of or an adjudication of delinquency based on any offense under the following provisions: ...Section 3743 (relating to accidents involving damage to attended vehicle or property).

Under Section 6323 of Title 75 ("the Vehicle Code"), it is mandatory that the Clerk of Courts report all violations of the Vehicle Code to the Pennsylvania Department of Transportation's Bureau of Driver Licensing using a DL-21 Form upon a conviction or acquittal of offenses charged. Upon receipt of such reports from the Clerk of Courts, the

¹⁷ For purposes of Title 75 of Pennsylvania's Statutes, the term "department" means the Department of Transportation of the Commonwealth," more commonly referred to as "PennDOT."

¹⁸ *Commonwealth v. Mockaitis*, 575 Pa. 5, 11 (2003).

¹⁹ *Id* (internal citations omitted).

²⁰ *Id* quoting *PennDOT v. McCafferty*, 563 Pa. 14 [6], 158-59, 758 A.2d 1155, 1162 (2000) citing *Duffey*, *supra* at 442.

Department issues notices to the motorist that his license is being suspended based on a conviction, and it is apparent such action was taken here. The DL-21 Forms were filed on January 24, 2025. Petitioner's PCRA *pro se* petition followed approximately thirty (30) days later, presumably on the heels of the notice he received from PennDOT of license suspension. Petitioner's initial petition asserted that he was not aware he would receive a license suspension, and because of that, he should have his sentence vacated. Petitioner's statement that he was not advised he would receive a "longer" sentence indicates to the Court that Petitioner had some inclination he would likely be receiving some form of license suspension. Regardless, the Pennsylvania Supreme Court concluded in *Duffey* that there is no requirement that the appellant be aware at the time of his guilty plea of the consequence of license suspension. "Loss of driving privileges is 'irrelevant to the determination of whether a guilty plea was entered voluntarily and knowingly.'" ²¹ Petitioner completed the guilty plea colloquy on the record, and the Court does not find any indication in his colloquy or his written guilty plea that indicates he did not otherwise enter his plea of guilty knowingly, voluntarily, and intelligently. Thus, Petitioner's lack of awareness is inconsequential here to the plea of guilty that he entered.

Conclusion

Petitioner did not adequately plead and prove, by a preponderance of the evidence, that he received a sentence in violation of his rights, that he received an illegal sentence, or that the guilty plea he entered was unlawfully induced. In consideration of the entire record, the Court finds that the claims asserted in the subject Petition lack merit.

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 dismiss Petitioner's PCRA Petition. Petitioner may respond to this proposed dismissal within twenty

²¹ *Commonwealth v. Duffey*, 536 Pa. 436, 441 citing *Commonwealth v. Frometa*, 520 Pa. 552 (1989).

(20) days. If no response is received within that time period, the Court will enter an Order dismissing the Petition.

Finally, in view of the Court's conclusion, aligning with the Court in *Duffey*, operating privilege suspensions imposed by the Department of Transportation under 75 Pa.C.S. §3743 are within the scope of 75 Pa.C.S. Section 1550, relating to statutory appeals, and are properly appealable to the Commonwealth Court under 42 Pa.C.S. Section 762(a)(3).

Accordingly, the Court enters the following Order:

ORDER

AND NOW, this _____ day of **January, 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
Tate Hamm-100 S. St. Muncy, PA
Gary Weber, Esq.—Lycoming Reporter