

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)
)
) I.D. No. 1208026120
 v.)
)
 DAMIEN R. TRAWICK,)
)
 Defendant.)

Submitted: October 11, 2015

Decided: January 4, 2016

On Appointed Counsel's Motion to Withdraw.

GRANTED.

ORDER

Matthew B. Frawley, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the State.

Donald R. Roberts, Esquire, Roberts' Law, LLC, Elsmere, Delaware, Attorney for Defendant.

COOCH, R.J.

This 4th day of January, 2016, upon consideration of appointed counsel's Motion to Withdraw, it appears to the Court that:

1. This case presents a somewhat unusual procedural history. On September 13, 2012, Defendant Damien R. Trawick pled guilty to Possession of a Deadly Weapon by a Person Prohibited.¹ The State filed a Motion with this Court to declare Defendant a habitual offender pursuant to 11 *Del. C.* § 4214(a), which the Court granted immediately prior to Defendant's sentencing.²

¹ Docket #3 (Sept. 13, 2012).

² Docket # 5 (Nov. 7, 2012); Docket #6 (Nov. 9, 2012).

2. As an habitual offender, Defendant received a minimum-mandatory sentence of eight years at Level V, followed by six months at Level IV.³ Defendant then filed several *pro se* Motions for Correction of Sentence pursuant to Superior Court Criminal Rule 35, which were all denied.⁴
3. On October 23, 2013, Defendant filed a *pro se* Motion for Postconviction Relief. On May 28, 2014, Defendant, through then-appointed counsel, Christopher D. Tease, Esquire, filed an Amended Motion for Postconviction Relief. That Amended Motion, which in essence adopted Defendant's *pro se* claims, was denied by this Court in *State v. Trawick*, 2014 WL 5741005, at* 1 (Oct. 27, 2014) (holding that Defendant's claim of ineffective assistance of counsel was without merit; Defendant could not bring a claim of "illegal arrest," because he pled guilty; a sentence of eight years at Level V was appropriate; and Defendant's conviction of Possession of a Deadly Weapon by a Person Prohibited was properly considered a violent felony in considering his habitual offender status).
4. Following this Court's October 2014 decision, Defendant had 30 days to appeal to the Delaware Supreme Court.⁵ On November 20, 2014, one week prior to the expiration of the 30-day deadline for an appeal, Christopher D. Tease, Esquire voluntarily retired from practicing law. Nothing in the record indicates that Defendant intended on filing an appeal. However, to ensure Defendant had a full opportunity afforded under the law, subsequent counsel, Donald R. Roberts, Esquire, was appointed to represent him.
5. Newly appointed counsel reviewed the merits of Defendant's claims timely and filed a Motion to Withdraw. Appointed counsel determined that he "is unable to identify any basis for [p]ostconviction [r]elief that can be ethically advocated."⁶ Following appointed counsel's Motion to Withdraw, Defendant had 30 days to respond. Defendant never responded to the

³ Sentence Order (Nov. 9, 2012).

⁴ *State v. Trawick*, 2014 WL 5741005, at *1 (Oct. 27, 2014).

⁵ Supr. Ct. R. 6(a)(iv).

⁶ Mot. to Withdraw at ¶ 11 (Sept. 16, 2015).

Motion to Withdraw with any addition points for the Court to consider.

6. Since newly appointed counsel cannot identify any basis for postconviction relief that can be ethically advocated, and Defendant has failed to respond with any additional points for the Court to consider, the Motion is granted.
7. Under the circumstances, the effective date of the Court's decision denying Defendant's May 28, 2014, Amended Motion for Postconviction Relief of October 27, 2014 is amended to today's date of January 4, 2016. The original decision has been so amended. Copies are enclosed for all recipients of this Order.

Therefore, appointed counsel's Motion to Withdraw is **GRANTED**.

IT IS SO ORDERED.

Richard R. Cooch, R.J.

Enclosure

cc: Prothonotary (w/ encl.)
Investigative Services (w/ encl.)
Christopher D. Tease, Esquire (w/ encl.)
Damien R. Trawick (w/ encl.)