

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
JAGMINDER JIT SINGH	:	
	:	
Appellant	:	No. 209 MDA 2026

Appeal from the PCRA Order Entered January 5, 2026
In the Court of Common Pleas of Lancaster County Criminal Division at
No(s): CP-36-CR-0000408-2023

BEFORE: MURRAY, J., LANE, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY MURRAY, J.:

FILED: OCTOBER 16, 2026

Jagminder Jit Singh (Appellant) appeals from the order dismissing without a hearing his first petition filed pursuant to the Post Conviction Relief Act ("PCRA").¹ Appellant claims that his plea counsel rendered ineffective assistance by not advising him that his guilty plea could have an impact on his immigration status. After careful review, we affirm.

On December 23, 2022, Appellant drove his tractor trailer eastbound, in the westbound lanes of Interstate 76, East Cocalico Township, Lancaster County, Pennsylvania. N.T. (Guilty Plea), 4/17/24, at 7. Appellant's tractor trailer collided with a blue Ford F-250 containing three occupants. ***Id.*** The

* Retired Senior Judge assigned to the Superior Court.

¹ 42 Pa.C.S.A. §§ 9541-9546.

driver of the Ford F-250 was ejected from the vehicle and sustained serious injuries. ***Id.*** at 8. The other two occupants of the Ford F-250 died as a result of the collision. ***Id.***

On April 17, 2024, Appellant, with the assistance of plea counsel, entered a negotiated guilty plea to homicide by vehicle while driving under the influence of alcohol or a controlled substance (DUI) (two counts); homicide by vehicle (two counts); DUI – controlled substance/impaired ability (first offense) (one count); DUI – controlled substance/combination of drugs and alcohol (first offense) (one count); DUI – controlled substance/Schedule 2 or 3 (first offense) (one count); DUI – controlled substance/metabolite (first offense); DUI – commercial vehicle/blood alcohol content 0.04 or more (first offense); aggravated assault by vehicle while DUI; aggravated assault by vehicle, recklessly endangering another person (REAP) (four counts); and related summary offenses.² As described by the PCRA court,

[a]fter confirming with [Appellant] and his counsel that the plea [was] knowing and voluntary, [the trial court] accepted [Appellant's] negotiated guilty plea, and [Appellant] was sentenced during the same hearing to an aggregate sentence of seven to 20 years' incarceration. [N.T.], 4/17/2024, at 5, 9-10; Sentencing Order, 4/17/2024, at 6. [Appellant] did not file a post-sentence motion or a direct appeal.

On February 10, 2025, [Appellant] filed a *pro se* motion to withdraw his guilty plea because he alleged that his guilty plea

² **See** 75 Pa.C.S.A. §§ 3735(a)(1)(i), 3732(a), 3802(d)(2)-(3) (one count each), 3802(d)(1)(ii)-(iii) (one count each), 3802(f)(1) (one count), 3735.1(a) (one count), 3732.1(a) (one count); 18 Pa.C.S.A. § 2705 (four counts); 75 Pa.C.S.A. § 3736(a) (one count).

counsel never advised him of the possible immigration consequences of pleading guilty. Motion to Withdraw Guilty Plea, 2/10/2025, at 1-2. [Appellant] requested “[the PCRA court] to modify the plea offer as articulated by his counsel, where [Appellant] has no threat of facing deportation, as promised.” **Id.** at 2. On March 31, 2025, [Appellant] filed a *pro se* petition to “remove detainer[,]” which was[,] in fact[,] a motion to withdraw his guilty plea. **See** Petition to Remove Detainer, 3/31/2025. Therein, [Appellant] again averred that he was not informed of the possible immigration consequences of pleading guilty and wished to withdraw his guilty plea. **Id.**

As it is well settled that all motions filed after the judgment of sentence is final are to be treated as [] PCRA petitions, [the PCRA court] combined the two *pro se* filings and decided to treat them as one PCRA Petition. **Commonwealth v. Taylor**, 65 A.3d 462, 466 (Pa. Super. 2013) Therefore, on May 8, 2025, PCRA counsel was appointed. Order, 5/8/2025. On PCRA review, [Appellant] [] presented one issue, that guilty plea counsel was ineffective for failing to inform [Appellant] he could be deported by pleading guilty. [Amended PCRA Petition], 10/14/2025, at ...2 [(unpaginated)]....

Pa.R.Crim.P. 907 Notice, 11/13/25, at 1-2 (footnotes omitted).

On November 13, 2025, the PCRA court issued Pa.R.Crim.P. 907 notice of its intention to dismiss Appellant’s Amended PCRA petition without a hearing. Appellant filed a counseled response to the Rule 907 notice on December 1, 2025. Appellant also filed a *pro se* response.³

³ In his *pro se* response, Appellant cited **Commonwealth v. Bradley**, 261 A.3d 381 (Pa. 2021), and claimed the ineffective assistance of his “trial” counsel. *Pro Se Rule 907 Response*, 12/16/25, ¶¶ 2-3. In **Bradley**, our Supreme Court held “that a PCRA petitioner may, after a PCRA court denies relief, and after obtaining new counsel or acting *pro se*, raise claims of PCRA counsel’s ineffectiveness at the first opportunity to do so, even if on appeal.” **Bradley**, 261 A.3d at 401 (footnote omitted). Appellant did not assert the ineffective assistance of his PCRA counsel. As such, we need not remand for the appointment of new counsel.

On January 5, 2026, the PCRA court dismissed Appellant's amended PCRA petition without a hearing. PCRA Court Order, 1/5/26. Appellant timely appealed. Appellant and the PCRA court have complied with Pa.R.A.P. 1925.

Appellant presents the following issue for our review:

Did the [PCRA] court err in denying [Appellant's amended PCRA] petition, without a hearing, on his claim that [plea] counsel was ineffective for failing to advise [Appellant] that he was pleading guilty to several offenses that would result [in] his deportation, as there were genuine issues concerning material facts that needed to be developed at a hearing?

Appellant's Brief at 4.

Appellant argues that the PCRA court improperly dismissed his amended petition without first conducting an evidentiary hearing. Appellant's Brief at 10. Appellant asserts that summarily dismissing a PCRA petition is reserved for cases that are

patently frivolous and without support in the record, or that the facts alleged would not, even if proven, entitle the defendant to relief, or that there are no genuine issues of fact.

Id. at 10-11 (quoting Pa.R.Crim.P. 907, cmt.). Appellant claims his sole issue raised a material issue of fact, which required an evidentiary hearing under Pa.R.Crim.P. 908(A)(2).⁴ Appellant's Brief at 11. According to Appellant, he

⁴ Rule 908 provides, in relevant part, as follows:

(A) Except as provided in Rule 907, the judge shall order a hearing:

....
(Footnote Continued Next Page)

asserted that his plea counsel failed to advise him that Appellant “was pleading guilty to several offenses that would result in his deportation.” **Id.** at 11. Appellant claims that these offenses all involve “moral turpitude,” which made him likely to face deportation. **Id.**

Appellant contends that because the PCRA court dismissed his amended petition without a hearing, “there is no explanation by [plea] counsel[,] on the record[,] as to why he failed to advise [Appellant] of the clear and direct immigration consequences of his plea.” **Id.** According to Appellant, plea counsel’s affidavit “claimed simply that [counsel] ‘discussed immigration consequences’ with [Appellant,] with no further detail.” **Id.** at 11-12. Appellant points out that at his oral plea colloquy, no mention is made of the potential for immigration consequences. **Id.** at 12. Appellant claims that the PCRA court should have conducted an evidentiary hearing, to develop the record “on what consequences counsel specifically advised [Appellant] of.” **Id.**

Citing **Padilla v. Kentucky**, 559 U.S. 356 (2010), Appellant argues that counsel must inform a client whether a plea carries a risk of deportation, “and

(2) when the petition for post-conviction relief or the Commonwealth’s answer, if any, raises material issues of fact. However, the judge may deny a hearing on a specific issue of fact when a full and fair evidentiary hearing upon that issue was held at trial or at any proceeding before or after trial.

Pa.R.Crim.P. 908(A)(2).

when deportation consequences are truly clear, counsel's duty to give correct advice is equally clear." **Id.** at 13. Appellant argues that in criminal cases involving controlled substances other than marijuana, a non-citizen is deportable. **Id.** Appellant asserts that his plea counsel "was ineffective for failing to advise [Appellant] that he was pleading guilty to several offenses that would most certainly guarantee his removal." **Id.** at 14. According to Appellant, his plea counsel should have informed Appellant that he would be "removable and deported if he ple[d] guilty to those charges." **Id.**

Appellant claims plea counsel was also ineffective for failing to advise Appellant that by pleading guilty to charges involving moral turpitude (vehicular homicide), Appellant was deportable. **Id.** at 15. Appellant asserts that,

[c]onsidering the seriousness of [Appellant's] case, the nature of the charges, and the amount of charges involving controlled substances and moral turpitude, it was clear what the immigration consequences would be—[Appellant] would be removeable and eventually deported. Appellant pleaded guilty without that clear information from his attorney[,], making his plea involuntary, unknowing and unintelligent. Had counsel told [Appellant] he would be deported if he pleaded guilty, [Appellant] would not have pled guilty....

Id.

Finally, Appellant claims that counsel's actions caused him to enter an unknowing and involuntary plea. **Id.** at 16. Appellant asserts that he "had no idea that he was not given adequate advice until the Immigration and Custody Enforcement detainer was placed upon him, well after his guilty plea

proceeding and [the] time for a post-sentence motion had passed.” **Id.** at 16-17. Appellant claims he filed his motion to withdraw his plea at that time. **Id.** at 17.

Appellant compares his circumstances with those presented in **Commonwealth v. Ramierz-Contreras**, 320 A.3d 756 (Pa. Super. 2024). In **Ramierz-Contreras**, Appellant argues, the petitioner claimed an unknowing and involuntary plea where counsel had failed to inform the petitioner that counsel was not an immigration attorney and that the petitioner could seek immigration counsel if desired. Appellant’s Brief at 17. In that case, Appellant states, this Court found that counsel should have advised the petitioner that he would be deportable after pleading guilty to an aggravated felony. **Id.**

Appellant claims that in his case, there was no on-the-record discussion about any immigration consequences. **Id.** Rather, there was only a single question on his written guilty-plea colloquy. **Id.** at 17. Appellant asserts that “[s]imply telling [Appellant] that there could be immigration consequences was not enough when it was clear [Appellant] was pleading guilty to multiple offenses that would make him removable and eventually be deported.” **Id.** at 18-19. Appellant claims his counsel’s ineffectiveness caused his unknowing and involuntary plea. **Id.** at 19.

“Appellate review of a PCRA court’s dismissal of a PCRA petition is limited to the examination of whether the PCRA court’s determination is

supported by the record and free of legal error.” **Commonwealth v. Maxwell**, 232 A.3d 739, 744 (Pa. Super. 2020) (*en banc*) (citation and quotation marks omitted). “[W]e review the PCRA court’s legal conclusions *de novo*.” **Id.** (citation omitted).

A PCRA petitioner is not entitled to an evidentiary hearing as a matter of right. **Commonwealth v. Taylor**, 933 A.2d 1035, 1040 (Pa. Super. 2007). If the PCRA court can determine from the record that no genuine issues of material fact exists, it need not conduct an evidentiary hearing. **Commonwealth v. Anderson**, 327 A.3d 273, 280-81 (Pa. Super. 2024); Pa.R.Crim.P. 907(1) (providing the procedure for dismissal without a hearing if the PCRA court determines that there are “no genuine issues concerning any material fact and that the petitioner is not entitled to PCRA relief, and no purpose would be served by any further proceedings”).

To obtain reversal of a PCRA court’s decision to dismiss a petition without a hearing, an appellant must show that he raised a genuine issue of fact which, if resolved in his favor, would have entitled him to relief, or that the court otherwise abused its discretion in denying a hearing.

Commonwealth v. McCready, 295 A.3d 292, 298 (Pa. Super. 2023) (citation omitted).

Appellant claims the ineffective assistance of his plea counsel.

Counsel is presumed to have been effective. In order to overcome that presumption and prevail on a claim of ineffectiveness, Appellant must establish that: (1) the underlying claim has arguable merit; (2) counsel had no reasonable basis for his conduct; and (3) he was prejudiced by counsel’s ineffectiveness, *i.e.* [,] there is a reasonable probability that because of the act or

omission in question, the outcome of the proceeding would have been different.

Commonwealth v. Hand, 252 A.3d 1159, 1166 (Pa. Super. 2021) (citations omitted). PCRA petitioners bear the burden of pleading and proving each of these three prongs by a preponderance of the evidence. ***Commonwealth v. Krock***, 282 A.3d 1132, 1137 (Pa. Super. 2022). The failure to satisfy any one of these three prongs will result in the failure of the entire claim. ***Commonwealth v. Martin***, 5 A.3d 177, 183 (Pa. 2010).

As noted above, Appellant argues that plea counsel failed to adequately apprise him of the collateral immigration consequences of his plea, and that this ineffectiveness caused him to enter an unknowing and unlawful plea.

Ineffective assistance of counsel claims arising from the plea-bargaining process are eligible for PCRA review. Allegations of ineffectiveness in connection with the entry of a guilty plea will serve as a basis for relief only if the ineffectiveness caused the defendant to enter an involuntary or unknowing plea. Where the defendant enters his plea on the advice of counsel, the voluntariness of the plea depends on whether counsel's advice was within the range of competence demanded of attorneys in criminal cases.

Commonwealth v. Kelley, 136 A.3d 1007, 1012-13 (Pa. Super. 2016) (citations omitted). However, "a defendant may not assert grounds for withdrawing the plea that contradict statements made when he entered the plea." ***Commonwealth v. Orlando***, 156 A.3d 1274, 1281 (Pa. Super. 2017). Moreover, "[o]ur law presumes that a defendant who enters a guilty plea was aware of what he was doing," and "[h]e bears the burden of proving

otherwise.” ***Commonwealth v. Pollard***, 832 A.2d 517, 523 (Pa. Super. 2003).

In the seminal case of ***Padilla v. Kentucky***, due to the “seriousness of deportation as a consequence of a criminal plea,” the United States Supreme Court considered the extent to which criminal counsel must advise noncitizen clients regarding the immigration consequences of pleading guilty to a crime. ***Padilla***, 559 U.S. at 356. In order to comply with the Sixth Amendment of the United States Constitution, the Supreme Court ruled that criminal defense counsel must inform a noncitizen client “whether his plea carries a risk of deportation.” ***Id.*** When immigration “law is not succinct and straightforward ... a criminal defense attorney need do no more than advise a noncitizen client that pending criminal charges may carry a risk of adverse immigration consequences.” ***Id.*** at 369. “But when the deportation consequence is truly clear ... the duty to give correct advice is equally clear.” ***Id.***

In ***Padilla***, the United States Supreme Court determined that Padilla’s counsel reasonably could have determined the immigration consequences of Padilla’s guilty plea to a drug offense by reading the federal removal statute. ***Id.*** at 368-69. However, Padilla’s counsel provided false assurances that Padilla’s guilty plea would not impact Padilla’s immigration status. ***Id.*** The Supreme Court remanded the matter for a determination of whether Padilla suffered prejudice resulting from counsel’s deficient advice. ***Id.***

Subsequently, this Court applied **Padilla** and concluded that the duty to provide correct advice required counsel to “inform a noncitizen defendant as to whether a plea carries a risk of deportation.” **Commonwealth v. Escobar**, 70 A.3d 838, 841 (Pa. Super. 2013) (citing **Padilla**, 559 U.S. at 373-74). The onus is on counsel, not the court. **Commonwealth v. Rachak**, 62 A.3d 389, 392 n.2 (Pa. Super. 2012). However, this duty to provide correct advice regarding immigration consequences does not, necessarily, require counsel to advise a client that pleading guilty will definitely result in deportation. **Escobar**, 70 A.3d at 841.

In **Escobar**, a case involving drug offenses that would render an alien offender presumptively deportable, this Court interpreted the **Padilla** language, as follows:

We do acknowledge that parts of the **Padilla** opinion contain language arguably supporting the notion that plea counsel, in some cases, may have a duty to provide a rather certain indication of deportation...

Even still, we think the [C]ourt’s overall emphasis was that the deportation statute in question makes most drug convicts subject to deportation in the sense that they certainly become deportable, not in the sense that plea counsel should know and state with certainty that the federal government will, in fact, initiate deportation proceedings.

Ultimately, when announcing its holding, the **Padilla** [C]ourt opined, “We now hold that counsel must inform the client whether the plea carries a risk of deportation.”

Id. at 842 (internal citations omitted); **see also Commonwealth v. Wah**, 42 A.3d 335, 340 (Pa. Super. 2012) (rejecting an ineffectiveness claim where

plea counsel had informed the defendant that there could be deportation consequences as a result of his plea, and suggested that the defendant consult with immigration counsel); ***Commonwealth v. McDermitt***, 66 A.3d 810, 814 (Pa. Super. 2013) (holding that ***Padilla*** requires counsel to inform a noncitizen defendant of the risk of deportation, not that deportation is a certainty).

In the instant case, Appellant signed a written plea colloquy that included the following question and answer:

Do you understand that if you are not a United States Citizen, there may be immigration consequences as a result of your guilty plea?

Yes [handwritten]

Written Plea Colloquy, 9/16/24, at 1. In Appellant's counseled response to the PCRA court's Rule 907 notice, Appellant averred, in relevant part, as follows:

[Plea] Counsel's file notes simply state that he advised [Appellant] "that immigration might be an issue."

[Plea] Counsel's signed Affidavit simply indicates that he discussed "immigration consequences of a guilty plea."

Counseled Pa.R.Crim.P. 907 Response, 12/1/25, ¶¶ 20-21 (paragraph designations omitted). Plea counsel's signed affidavit, attached to Appellant's *pro se* Rule 907 response, provided as follows:

I advised [Appellant] on entering a negotiated guilty plea. I met with [Appellant] and a Hindi interpreter at the Lancaster County Prison on December 6, 2023. We discussed immigration consequences of a guilty plea.

Amended PCRA Petition, 10/14/25, attach.

Thus, the record establishes that plea counsel informed Appellant that a guilty plea could have immigration consequences. As the PCRA court explained in its opinion,

[Appellant] has utterly failed to plead and prove facts to rebut plea counsel's effectiveness concerning the immigration consequences of [Appellant's] plea. [Plea c]ounsel properly advised [Appellant] of potential immigration consequences; therefore, counsel's advice was within the proper range of competence demanded of criminal defense attorneys. **Orlando**, 156 A.3d at 1280. Because voluntariness of a guilty plea in an ineffective assistance of counsel claim depends on whether counsel's advice was within the range of competence, [Appellant's] guilty plea was knowing and voluntary.

PCRA Court Pa.R.Crim.P. 907 Notice, 11/12/25, at 7. We agree, and discern no error or abuse of the PCRA court's discretion.⁵ Appellant's issue merits no relief.

⁵ Although Appellant relies on this Court's decision in **Ramirez-Contreras**, the circumstances in that case are distinguishable. In **Ramirez-Contreras**, the record indicated that the defendant and the trial court believed the defendant would be eligible for work-release under the terms of the plea agreement. **Ramirez-Contreras**, 320 A.3d at 765. We concluded that

[p]lea counsel's casual advice that [the defendant] "could" speak to an immigration attorney, without even alerting [the defendant] that his charges "may" carry a risk of adverse immigration consequences, falls short of the responsibilities of competent counsel....

Id. Here, there was no indication of a possibility of work release for Appellant, and plea counsel advised Appellant that his plea might have immigration consequences. Thus, **Ramirez-Contreras** offers no support for Appellant's contention.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/16/2026