NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
TAJH ANDRAE CURRY	:	
Appellant	:	No. 881 EDA 2026

Appeal from the Judgment of Sentence Entered February 27, 2026
In the Court of Common Pleas of Chester County Criminal Division at
No(s): CP-15-CR-0002952-2024

BEFORE: LAZARUS, P.J., DUBOW, J., and KUNSELMAN, J.

MEMORANDUM BY LAZARUS, P.J.: **FILED NOVEMBER 25, 2026**

Tajh Andrae Curry appeals from the judgment of sentence, entered in the Court of Common Pleas of Chester County, after he entered a negotiated guilty plea to one count each of possession with intent to deliver a controlled substance—fentanyl ("PWID")[1] and persons not to possess firearms.[2] Counsel has filed an ***Anders***[3] brief and an application to withdraw as counsel. After our review, we affirm the judgment of sentence and grant counsel's application to withdraw.

---

[1] 35 P.S. § 780-113(a)(30).

[2] 18 Pa.C.S.A. § 6105.

[3] ***Anders v. California***, 386 U.S. 738 (1967). ***See also Commonwealth v. McClendon***, 434 A.2d 1185 (Pa. 1981); ***Commonwealth v. Santiago***, 978 A.2d 349 (Pa. 2009).

At his February 27, 2026 guilty plea/sentencing hearing, Curry admitted to the following factual basis for his plea:

> [ASSISTANT DISTRICT ATTORNEY]: On August 14[,] 2024, police executed a search warrant at 101 Barber Avenue in Valley Township after an investigation into drug trafficking activities. The defendant, Tajh Curry, was discovered to be living at 101 Barber Avenue, and within his bedroom, police located a 9-millimeter firearm, as well as five grams of fentanyl, which was possessed with the intent to deliver. [Curry] is prohibited from possessing a firearm due to a 2010 conviction for robbery.

N.T. Guilty Plea/Sentencing Hearing, 2/27/26, at 5-6. The trial court sentenced Curry to agreed-upon consecutive terms of 4 to 8 years' incarceration for the firearms charge and 4 years of probation for PWID. Curry did not file post-sentence motions. On March 25, 2026, Curry filed a timely notice of appeal. On March 27, 2026, the trial court issued two orders—one appointing Scott J. Werner, Jr., Esquire, as appellate counsel and a second directing Curry to file a Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal. On April 8, 2026, while his appeal to this Court was pending and he was represented by Attorney Werner, Curry filed an untimely post-sentence motion to withdraw his guilty plea, in which he claimed his plea was not knowingly, intelligently, and voluntarily entered due to the alleged ineffective assistance of counsel. On May 5, 2026, Attorney Werner filed a motion to extend the time to file a Rule 1925(b) statement, as he had not yet received the guilty plea/sentencing transcripts. The court granted that motion. On July 6, 2026, counsel filed a statement of intent to file an ***Anders*** brief pursuant to Rule 1925(c)(4).

Prior to addressing the merits of the claims raised in counsel's ***Anders*** brief, we must determine whether counsel has complied with the dictates of ***Anders*** and its progeny in his request to withdraw from representation. ***See Commonwealth v. Goodwin***, 928 A.2d 287, 290 (Pa. Super. 2007) (en banc) (this Court may not review merits of underlying issues without first examining counsel's request to withdraw). Court-appointed counsel seeking to withdraw from representation on the basis that the appeal is frivolous must:

> (1) petition the court for leave to withdraw stating that, after making a conscientious examination of the record, counsel has determined that the appeal would be frivolous; (2) file a brief referring to anything that arguably might support the appeal[;] and (3) furnish a copy of the brief to the defendant and advise the defendant of his [] right to retain new counsel or raise any additional points that he [] deems worthy of the court's attention.

Id.

Additionally, the Pennsylvania Supreme Court has explained that a proper ***Anders*** brief must:

> (1) provide a summary of the procedural history and facts, with citations to the record; (2) refer to anything in the record that counsel believes arguably supports the appeal; (3) set forth counsel's conclusion that the appeal is frivolous; and (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

Santiago, 978 A.2d 361. Finally, this Court must "conduct an independent review of the record to discern if there are any additional, non-frivolous issues overlooked by counsel." ***Commonwealth v. Flowers***, 113 A.3d 1246, 1250 (Pa. Super. 2015) (footnote omitted).

Here, our review of counsel's ***Anders*** brief and application to withdraw reveals that counsel has complied with each of the technical requirements of ***Anders*** and ***Santiago***. Counsel states that he has made a conscientious examination of the record, determined that further pursuit of a direct appeal would be frivolous, and furnished a copy of the letter sent to Curry advising him of his right to proceed pro se or raise issues in response to the brief.[4] ***See Goodwin***, ***supra***. Additionally, counsel's ***Anders*** brief complies with the requirements of ***Santiago***. Accordingly, we conclude that counsel has substantially complied with the requirements for withdrawing from representation and proceed with an independent review of the merits. ***See Flowers***, ***supra***.

Counsel claims in his ***Anders*** brief that two issues arguably support this appeal. First, he claims that Curry's plea was not entered knowingly, voluntarily, and intelligently "because he did not have enough time with trial counsel to fully discuss the plea and trial rights, felt rushed by counsel, and suffers from PTSD." ***Anders*** Brief, at 13. He is entitled to no relief.

"This Court has held that a defendant wishing to challenge the voluntariness of a guilty plea on direct appeal must either object during the plea colloquy or file a motion to withdraw the plea within ten days of sentencing. Failure to employ either measure results in waiver."

---

[4] Curry has not filed a response to counsel's ***Anders*** brief.

Commonwealth v. Moore, 307 A.3d 95, 99 (Pa. Super. 2023) (citation, brackets, and internal quotation marks omitted).

Here, Curry was sentenced on February 27, 2026. On April 8, 2026—40 days after the imposition of his judgment of sentence and during the time he was represented by current counsel—Curry filed a pro se post-sentence motion to withdraw his plea. This motion was not only untimely, ***see*** Pa.R.Crim.P. 720(A)(1) (written post-sentence motion shall be filed no later than 10 days after imposition of sentence), it was also a legal nullity. ***See Commonwealth v. Hopkins***, 228 A.3d 577, 580 (Pa. Super. 2020) (as hybrid representation not permitted in Commonwealth, courts "will not accept a pro se motion while an appellant is represented by counsel; indeed, pro se motions have no legal effect and, therefore, are legal nullities."). Accordingly, Curry has waived this claim.

Even if it were not waived, this claim would garner Curry no relief.

> [P]ost-sentence motions for withdrawal are subject to higher scrutiny since courts strive to discourage entry of guilty pleas as sentence-testing devices. A defendant must demonstrate that manifest injustice would result if the court were to deny his post-sentence motion to withdraw a guilty plea. Manifest injustice may be established if the plea was not tendered knowingly, intelligently, and voluntarily. In determining whether a plea is valid, the court must examine the totality of circumstances surrounding the plea. A deficient plea does not *per se* establish prejudice on the order of manifest injustice.

Commonwealth v. Broaden, 980 A.2d 124, 129 (Pa. Super. 2009) (citations omitted).

In assessing the validity of a guilty plea, we are guided by the following:

A valid guilty plea must be knowingly, voluntarily, and intelligently entered. ***Commonwealth v. Pollard***, 832 A.2d 517, 522 (Pa. Super. 2003). The Pennsylvania Rules of Criminal Procedure mandate that pleas be taken in open court and require the court to conduct an on-the-record colloquy to ascertain whether a defendant is aware of his rights and the consequences of his plea. ***Commonwealth v. Hodges***, 789 A.2d 764, 765 (Pa. Super. 2002), citing Pa.R.Crim.P. 590. Specifically, the court must affirmatively demonstrate the defendant understands: (1) the nature of the charges to which he is pleading guilty; (2) the factual basis for the plea; (3) his right to trial by jury; (4) the presumption of innocence; (5) the permissible ranges of sentences and fines possible; and (6) that the court is not bound by the terms of the agreement unless the court accepts the agreement. ***Commonwealth v. G. Watson***, 835 A.2d 786, 796-97 (Pa. Super. 2003).

This Court will evaluate the adequacy of the plea colloquy and the voluntariness of the resulting plea by examining the totality of the circumstances surrounding the entry of that plea. ***Commonwealth v. Muhammad***, 794 A.2d 378, 383-84 (Pa. Super. 2002). A defendant is "bound by [his] statements made during [his] plea colloquy, and may not successfully assert claims that contradict such statements." ***Muhammad***, 794 A.2d at 384. Finally, a written colloquy signed by the defendant may supplement an oral colloquy as long as there is some on-the-record examination of the defendant. ***See*** Pa.R.Crim.P. 590, cmt.

Here, prior to the guilty plea hearing, Curry, aided by counsel, completed a written guilty plea colloquy in which he acknowledged that: (1) he understood the nature of the charges to which he was pleading guilty; (2) he is presumed innocent until proven guilty; (3) he had a right to a jury trial; (4) the permissible range of sentences and/or fines for the charged offenses; and (5) the judge is not bound by the terms of the plea unless he accepts it. ***See*** Written Guilty Plea Colloquy, 2/27/26, at 1, 6, 7. Curry further acknowledged that he had sufficient time to discuss the charges and his options with his counsel, and that he was satisfied with counsel's advice and representation. ***Id.*** at 8. Finally, Curry affirmed that he reviewed the written colloquy in its entirety, understood its full meaning, and his decision to plead guilty was knowing, voluntary, and intelligent. ***Id.***

Additionally, as noted above, counsel for the Commonwealth set forth the factual basis for Curry's plea on the record at the guilty plea/sentencing hearing and Curry admitted to those facts. ***See*** N.T. Guilty Plea/Sentencing Hearing, 2/27/26, at 5-6. Further, the court engaged in the following oral colloquy with Curry:

> THE COURT: Okay. Have you had enough time to talk to your attorney, Mr. Clark?
>
> THE DEFENDANT: Yes.
>
> THE COURT: Okay. Any questions about any of this today?
>
> THE DEFENDANT: No.
>
> THE COURT: Okay. The proposed plea they have[—]is that a knowing and intelligent plea on your behalf? Do you know what you're doing?

> THE DEFENDANT: Yes.
>
> THE COURT: Okay. Is this a voluntary plea of your own free[ ]will?
>
> THE DEFENDANT: Yes.
>
> THE COURT: Okay. And you're in jail, so you don't have any drugs or alcohol in your system, correct?
>
> THE DEFENDANT: No.

Id. at 2. The court also discussed the fact that Curry's plea would represent a parole violation and that he may suffer collateral consequences as a result of that violation. ***Id.*** at 3.

In light of the foregoing, it is apparent from the record that Curry entered his plea knowingly, intelligently, and voluntarily. To the extent Curry now claims he had insufficient time to discuss his options with counsel, his claim is belied by the record, and Curry may not obtain appellate relief by contradicting statements made both on the record at sentencing and in his written plea colloquy. ***Muhammad***, ***supra***. Accordingly, Curry would be entitled to no relief.

Finally, counsel raises a claim that Curry's plea counsel was ineffective. As counsel correctly notes in his ***Anders*** brief, generally, "claims of ineffective assistance of counsel are to be deferred to [review under the Post Conviction Relief Act ("PCRA")[5]] . . . and such claims should not be reviewed upon direct appeal." ***Anders*** Brief, at 16-17, citing ***Commonwealth v. Watson***, 310

---

[5] 42 Pa.C.S.A. §§ 9541-9546.

A.3d 307, 310-11 (Pa. Super. 2024). There are two limited exceptions to this general rule, neither of which apply here.[6] Accordingly, we dismiss this claim without prejudice to Curry's right to raise it in a timely filed PCRA petition.

Finally, having conducted our own independent review of the record, ***Flowers***, ***supra***, we agree with counsel that Curry's appeal is wholly frivolous and, therefore, that counsel should be permitted to withdraw.

Judgment of sentence affirmed. Application to withdraw granted.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/25/2026

---

[6] Two exceptions were set forth by our Supreme Court in ***Commonwealth v. Holmes***, 79 A.3d 562 (Pa. 2013), and are as follows: (1) in "an extraordinary case where the trial court, in the exercise of its discretion, determines that a claim (or claims) of ineffectiveness is both meritorious and apparent from the record so that immediate consideration and relief is warranted[;]" or (2) when the defendant raises "multiple, and indeed comprehensive, ineffectiveness claims[,]" of which the court, "in its discretion, and for good cause shown," determines post-verdict review is warranted, and the defendant waives his right to PCRA review. ***Id.*** at 577-78. The High Court recognized a third exception to the deferral rule in ***Commonwealth v. Delgros***, 183 A.3d 352, 362 (Pa. 2018), for cases where a defendant would be statutorily precluded from seeking PCRA relief because his or her only sentence was a fine without incarceration or probation.