

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Stefan Koltrider,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 2135 C.D. 2010
	:	SUBMITTED: April 8, 2011
Pennsylvania Board of Probation	:	
and Parole,	:	
	:	
Respondent	:	

BEFORE: **HONORABLE BONNIE BRIGANCE LEADBETTER**, President Judge
 HONORABLE P. KEVIN BROBSON, Judge
 HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
PRESIDENT JUDGE LEADBETTER **FILED: May 24, 2011**

Stefan Koltrider petitions for review of the order of the Pennsylvania Board of Probation and Parole (Board) that denied his administrative appeal from an order modifying a prior determination recommitting him for parole violations. The modification order, citing a “technician error,” recalculated Koltrider’s maximum date, pushing it approximately one and a half years later. In addition, Koltrider’s court-appointed counsel, Kent D. Watkins, Esquire, petitions for leave to withdraw his representation on the grounds that Koltrider’s appeal is frivolous. After review, we grant counsel’s petition and affirm the order of the Board.

After Koltrider waived a hearing and signed a form admitting to three parole violations, Koltrider was recommitting by the Board’s order of November

19, 2009 as a technical parole violator, with a maximum date of September 26, 2010. However, on June 11, 2010, the Board issued a new order, modifying the prior order to reflect a maximum date of March 17, 2012. With counsel, Koltrider filed an administrative appeal from the amended order. The Board denied this appeal, in an opinion that explained that the original order had calculated the maximum date based upon one of the sentences Koltrider was serving at the time, when it should have taken into account all of his sentences. The June order, the Board maintained, merely corrected that oversight. An appeal to this court followed.

Before this court, Koltrider's counsel filed a petition to withdraw representation and a "Turner letter"¹ in support thereof. In his "Turner letter," Counsel sufficiently details the issue raised, as well as the nature and extent of his review and analysis in concluding that the appeal is frivolous. *See Hont v. Pa. Bd. of Prob. and Parole*, 680 A.2d 47 (Pa. Cmwlth. 1996) (establishing requisite elements of adequate "Turner letter"). Specifically, Counsel reviewed the history of Koltrider's case, and concluded that there was no error in the recalculation of Koltrider's maximum date. In addition, Counsel provided Koltrider with a copy of his petition to withdraw and the "Turner letter." Therefore, Counsel has complied with the requirements necessary to seek leave to withdraw as counsel. *Id.*; *Craig v. Pa. Bd. of Prob. and Parole*, 502 A.2d 758 (Pa. Cmwlth. 1985). Finally, pursuant to an order of this court dated February 1, 2011, Koltrider was advised of his right to obtain substitute counsel or to file a brief on his own behalf. Koltrider has not retained substitute counsel nor filed a brief.

¹ *Commonwealth v. Turner*, 518 Pa. 491, 544 A.2d 927 (1988).

In reviewing the petition to withdraw, we independently evaluate the proceedings before the Board to determine whether the appeal is without merit. *Dear v. Pa. Bd. of Prob. and Parole*, 686 A.2d 423 (Pa. Cmwlth. 1996). An examination of Koltrider's record reveals that he is serving three concurrent sentences with a maximum length of 17 years for three counts of robbery, as well as a sentence with a maximum length of four years for escape from detention. The 17-year sentences were imposed in 1994, while the four-year sentence was imposed in 2006. The record further reveals that, due to prior parole violations, the 17-year sentences imposed in 1994 have not yet been completed. In addition, it is clear that the November 2009 order, which gave a maximum date of September 26, 2010, was based only upon the four-year sentence, and that the revised order, giving a maximum date of March 17, 2012, correctly took into account the 17-year sentences as well.

The Board may modify a parole order at any time, subject to review for manifest abuse of discretion or violation of constitutional rights. *Garris v. Pa. Bd. of Prob. and Parole*, 516 A.2d 808 (Pa. Cmwlth. 1986). As the Board committed no such violations in correctly computing Koltrider's maximum date, we grant counsel's petition to withdraw representation and affirm the order of the Board.

BONNIE BRIGANCE LEADBETTER,
President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Stefan Koltrider,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 2135 C.D. 2010
	:	
Pennsylvania Board of Probation	:	
and Parole,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 24th day of May, 2011, the petition of Kent D. Watkins, Esquire to withdraw as counsel in the above-captioned matter is hereby GRANTED and the order of the Pennsylvania Board of Probation and Parole is AFFIRMED.

BONNIE BRIGANCE LEADBETTER,
President Judge