

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

CHRISTOPHER B. STEVENSON

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1034 MDA 2012

Appeal from the PCRA Order May 16, 2012
In the Court of Common Pleas of Dauphin County
Criminal Division at No(s): CP-22-CR-0001314-2005

BEFORE: SHOGAN, J., OTT, J., and COLVILLE, J.*

MEMORANDUM BY OTT, J.:

FILED MAY 07, 2013

Christopher B. Stevenson appeals, *pro se*, from the order entered on May 16, 2012, in the Court of Common Pleas of Dauphin County denying his petition for collateral relief filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S. § 9541 *et seq.* The PCRA Court dismissed the petition, Stevenson's second, as untimely, without a hearing. Although Stevenson has appealed, he has not challenged the determination that his petition is fatally late. Following a thorough review of the submissions by the parties, the certified record, and relevant law, we affirm.

* Retired Senior Judge assigned to the Superior Court.

On April 8, 2008, Stevenson pled guilty to third-degree murder, carrying a firearm without a license and person not to own a firearm.¹ On May 28, 2008, he was sentenced to an aggregate term of 17 to 34 years' incarceration. He did not file a direct appeal. Therefore, his sentence became final on June 27, 2008. Stevenson filed a timely first PCRA petition, which, due to procedural missteps, was not denied by a panel of our Court until March 17, 2011.² He filed the instant petition, his second, on March 22, 2012. In it, he claimed his prior counsel were all ineffective in coercing him into pleading guilty to a crime he did not commit.³ As noted, the PCRA court dismissed the petition without a hearing, following proper notice, as untimely. Stevenson appealed.

A PCRA petition, including a second or subsequent one, must be filed within one year of the date the petitioner's judgment of sentence became final, unless he pleads and proves one of the three exceptions outlined in 42 Pa.C.S. § 9545(b)(1) FN2; **Commonwealth v. Howard**, 567 Pa. 481, 788 A.2d 351, 354 (2002). A judgment becomes final at the conclusion of direct review by this Court or the United States Supreme Court, or at the expiration of the time for seeking such review. 42 Pa.C.S. § 9545(b)(3); **Howard**, at 353. The PCRA's timeliness requirements are jurisdictional; therefore, a court may not address the merits of the issues raised if the petition was not timely filed. **Commonwealth v. Abu-Jamal**, 574 Pa. 724, 833

¹ 18 Pa.S.C. §§ 2502(c), 6106(a), and 6105 respectively.

² **Commonwealth v. Stevenson**, 1109 MDA 2011.

³ Stevenson presented a variety of claims, but they center on the premise that he did not murder the victim, rather he acted in self-defense. Because we agree that the petition is untimely, we will not consider these claims.

A.2d 719, 723-24 (2003); **Commonwealth v. Murray**, 562 Pa. 1, 753 A.2d 201, 203 (2000). The timeliness requirements apply to all PCRA petitions, regardless of the nature of the individual claims raised therein. **Murray**, at 203. The PCRA squarely places upon the petitioner the burden of proving an untimely petition fits within one of the three exceptions. **See Commonwealth v. Bronshtein**, 561 Pa. 611, 752 A.2d 868, 871 (2002) (“[I]t is the petitioner's burden to plead and prove that one of the exceptions applies [.]”). The PCRA further requires a petition invoking one of these exceptions to “be filed within 60 days of the date the claim could have been presented.” 42 Pa.C.S. § 9545(b)(2). On appeal from the denial of PCRA relief, this Court decides “whether the findings of the PCRA court are supported by the record and free of legal error.” **Abu-Jamal**, at 723.

FN2. These exceptions are: “(i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States; (ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or (iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.” 42 Pa.C.S. § 8545(b)(1)(i)-(iii).

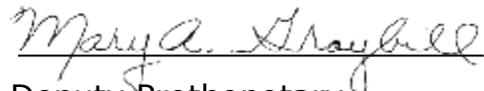
Commonwealth v. Jones, 54 A.3d 14, 16-17 (Pa. 2012).

Here, Stevenson’s judgment of sentence became final on June 27, 2008. Any PCRA petition, including a second or subsequent petition, was required to have been filed by June 27, 2009. This petition was not filed until March 22, 2012, almost four years beyond the deadline to file a timely petition. Stevenson made no claim in his petition that he was entitled to any of the timeliness exceptions and he has not claimed any of the exceptions in

his appeal. Therefore, we agree with the PCRA court's determination that the petition is untimely and we affirm the order denying him relief.⁴

Order affirmed.

Judgment Entered.


Deputy Prothonotary

Date: 5/7/2013

⁴ Stevenson's instant claims were originally raised in his first PCRA petition. However, he abandoned those claims and raised a new claim on appeal after his first petition was denied. **See *Commonwealth v. Stevenson***, 1109 MDA 2010, 3/17/11.