

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

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| COMMONWEALTH OF PENNSYLVANIA, | : | IN THE SUPERIOR COURT OF |
| | : | PENNSYLVANIA |
| Appellee | : | |
| | : | |
| v. | : | |
| | : | |
| JOHN R. MITCHELL, | : | |
| | : | |
| Appellant | : | No. 1096 WDA 2012 |

Appeal from the Order dated June 5, 2012,
Court of Common Pleas, Fayette County,
Criminal Division at No. CP-26-CR-0001427-1999

BEFORE: FORD ELLIOTT, P.J.E, BOWES and DONOHUE, JJ.

MEMORANDUM BY DONOHUE, J.:

Filed: January 24, 2013

Appellant, John R. Mitchell (“Mitchell”), appeals from the order denying his Petition for Redress of Grievances (the “Petition”). The trial court treated Mitchell’s Petition as a request for relief pursuant to the Post Conviction Relief Act, 42 Pa.C.S.A. §§ 9541-46 (“PCRA”), and dismissed it as untimely. We affirm.

On June 8, 2000, a jury found Mitchell guilty of robbery, burglary, aggravated assault, simple assault, and attempted criminal homicide. The trial court sentenced him to an aggravate term of incarceration of 252 months to 504 months. On February 5, 2001, this Court affirmed the judgment of sentence. On July 1, 2001, the Supreme Court of Pennsylvania denied his petition for allowance of appeal. On June 5, 2005, the trial court dismissed Mitchell’s counseled petition for PCRA relief.

On or about August 16, 2011, Mitchell filed his Petition, in which he sets forth a number of “jurisdictional challenges” to Pennsylvania’s constitutional authority to enact a Criminal Code and/or prosecute criminal charges. By order dated June 5, 2012, the trial court dismissed the Petition. In its subsequent Statement in Lieu of Opinion Pursuant to Pa.R.A.P 1925, the trial court indicated that it treated Mitchell’s Petition as a request for PCRA relief and dismissed it as untimely filed.

In ***Commonwealth v. Judge***, 591 Pa. 126, 916 A.2d 511 (2007), our Supreme Court reaffirmed that the PCRA subsumes all forms of post-conviction collateral relief to the extent that a remedy of the type requested is available under the PCRA. ***Id.*** at 140-41, 916 A.2d at 520; ***see also Commonwealth v. Peterkin***, 554 Pa. 547, 552, 722 A.2d 638, 640 (1998). The PCRA clearly provides for relief from violations of the Pennsylvania Constitution. 42 Pa. C.S.A. §§ 9543(a)(2)(i). Accordingly, the trial court correctly treated Mitchell’s Petition as a request for relief pursuant to the PCRA.

Pursuant to 42 Pa.C.S. § 9545(b)(1), a PCRA petition must be filed within one year of the date the judgment becomes final. In this case, Mitchell’s judgment of sentence became final on or about October 1, 2001, ninety days after our Supreme Court denied his petition for allowance of appeal. 42 Pa.C.S.A. § 9545(b)(3) (judgment of sentence becomes final at the conclusion of direct review). Thus, any PCRA petition filed after October

1, 2002 is untimely. Mitchell did not file his Petition until 2011, well after the expiration of the PCRA's timeliness requirement. The Petition contains no allegation that would support the application of any of the three exceptions to the PCRA's time bar, as set forth in 42 Pa.C.S.A. § 9545(b)(1)(i-iii). For these reasons, the trial court properly dismissed Mitchell's PCRA petition as untimely.

Order affirmed.