

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

MICHAEL JOHN PISKANIN, JR.,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1153 EDA 2013

Appeal from the PCRA Order of April 2, 2013
In the Court of Common Pleas of Lehigh County
Criminal Division at No(s): CP-39-CR-0002072-2004

BEFORE: GANTMAN, OLSON AND WECHT, JJ.

MEMORANDUM BY OLSON, J.:

FILED DECEMBER 24, 2013

Appellant, Michael John Piskanin, Jr., appeals *pro se* from the order entered on April 2, 2013, dismissing his petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S.A. §§ 9541-9546. We affirm.

A prior panel of this Court set forth the brief, but relevant facts and procedural posture of this matter as follows:

In April 2005, a jury convicted [Appellant] of 58 counts of identity theft by deception and one count of theft by receiving stolen property. On July 8, 2005, the trial court sentenced [Appellant] to an aggregate prison term of seven to fourteen years, and a concurrent seven-year term of probation. Although [Appellant] filed a direct appeal of his judgment of sentence, this Court dismissed the appeal on May 30, 2006, because he failed to file a brief. [Appellant] did not file a petition for allowance of appeal to the Pennsylvania Supreme Court. Accordingly, his judgment of sentence became final on June 29, 2006.

Commonwealth v. Piskanin, 37 A.3d 1233 (Pa. Super. 2011)(unpublished memorandum)(citations omitted) at 1-2.

Appellant filed a prior *pro se* PCRA petition on April 1, 2010 that the PCRA court dismissed as untimely. On appeal, this Court affirmed the dismissal because Appellant filed the petition over three years after his judgment of sentence became final and failed to plead or prove any statutory exception to the PCRA's one-year jurisdictional time bar. ***Id.*** at 2.

Currently at issue, Appellant filed a *pro se* "motion for PCRA relief based upon newly discovered evidence" on March 12, 2013. Therein, Appellant contends that former Pennsylvania Supreme Court Justice Joan Orié Melvin's criminal conviction indicated she, and other unnamed members of this Court, accepted bribes to deprive Appellant of due process.¹ On March 18, 2013, the PCRA court entered an order stating its intent to dismiss the PCRA petition without an evidentiary hearing pursuant to Pa.R.Crim.P. 907. Appellant responded on April 1, 2013. The following day, the PCRA court denied relief by order and opinion. This timely appeal resulted wherein Appellant raises two due process issues and presents a less than coherent argument that various judicial officials have conspired against him.

¹ Former Justice Orié Melvin was a member of this Court and on panels that denied Appellant appellate relief.

We cannot reach Appellant's claims, however, because the PCRA court lacked jurisdiction to address the current PCRA petition.

[T]he timeliness of a PCRA petition is a jurisdictional requisite. Jurisdictional time limits go to a court's right or competency to adjudicate a controversy. Pennsylvania law makes clear no court has jurisdiction to hear an untimely PCRA petition. The PCRA now requires a petition, including a second or subsequent petition, to be filed within one year of the date the underlying judgment becomes final. A judgment is deemed final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking review.

Commonwealth v. Williams, 35 A.3d 44, 52 (Pa. Super. 2011) (citations and quotations omitted).

"Generally, to obtain merits review of a PCRA petition filed more than one year after a petitioner's sentence became final, the petitioner must allege and prove at least one of the three timeliness exceptions." ***Williams***, 35 A.3d at 52, *citing* 42 Pa.C.S.A. § 9545(b)(1)(i)-(iii). The three exceptions to the one-year timing requirement are as follows:

(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

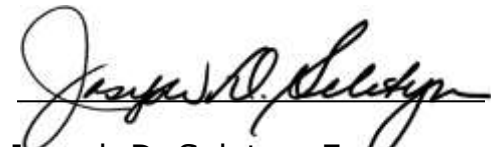
provided in this section and has been held by that court to apply retroactively.

42 Pa.C.S.A. § 9545 (b)(i-iii).

Here, as previously noted, Appellant's judgment of sentence became final on June 29, 2006. Thus, he had until June 29, 2007 to file a timely PCRA petition. The current petition filed on March 12, 2013 was patently untimely. Moreover, aside from baldly claiming Former Justice Orié Melvin's criminal conviction qualifies as newly discovered evidence, Appellant does not address the timeliness of his PCRA petition or prove any of the statutory exceptions to the one-year time bar. As such, the PCRA court lacked jurisdiction to address the merits of Appellant's current claim.

Order affirmed.² Appellant's motion for an extension to file a reply brief is denied.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/24/2013

² After the Commonwealth filed its appellate brief with this Court, Appellant filed a motion for an extension of time to file a reply brief. In light of our disposition that jurisdiction is lacking, we deny Appellant's motion for an extension.