

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
JONATHAN GRANT,	:	
	:	
Appellant	:	
	:	No. 1475 EDA 2013

Appeal from the PCRA Order April 26, 2013  
In the Court of Common Pleas of Bucks County  
Criminal Division No(s): CP-09-CR-0003705-1991

BEFORE: PANELLA, MUNDY and FITZGERALD,\* JJ.

MEMORANDUM BY FITZGERALD, J.:

**FILED NOVEMBER 25, 2013**

*Pro se* Appellant, Jonathan Grant, appeals from the order entered in the Bucks County Court of Common Pleas dismissing his ninth Post-Conviction Relief Act<sup>1</sup> ("PCRA") petition as untimely. He alleges a litany of trial court errors, violations of constitutional rights, and claims of ineffective assistance of counsel. We affirm.

We state the facts and procedural history as set forth by a prior panel of this Court:

---

\* Former Justice specially assigned to the Superior Court.

<sup>1</sup> 42 Pa.C.S. §§ 9541-9546.

On January 13, 1992, Appellant was found guilty of murder in the first degree and related offenses. Appellant was sentenced to life in prison.

Appellant filed an appeal to this court challenging the admission of certain evidence and the jury instructions. On December 15, 1993, this Court affirmed the judgment of sentence. The Pennsylvania Supreme Court denied leave to appeal on September 12, 1994.

***Commonwealth v. Grant***, 892 EDA 2011 (Pa. Super. Nov. 1, 2011) (unpublished memorandum at 1-3) ("***Grant VIII***"). Appellant subsequently filed eight PCRA petitions; our courts granted no relief.

Appellant filed the instant, *pro se* ninth PCRA petition on December 21, 2012.<sup>2</sup> On April 1, 2013, the PCRA court issued a Pa.R.Crim.P. 907 notice of intent to dismiss. On April 9, 2013, Appellant filed a response to the Rule 907 notice. On April 26, 2013, the PCRA court dismissed Appellant's petition.

Appellant timely appealed on May 9, 2013. He also filed a Pa.R.A.P. 1925(b) statement on June 6, 2013, although the PCRA court had not yet ordered one. On June 13, 2013, the PCRA court ordered Appellant to comply with Rule 1925(b).

Appellant raises the following issues:

Should [Appellant's] conviction and sentence be reversed and a new [trial] granted because [of] the trial judge's error in defining first degree murder and third degree

---

<sup>2</sup> The envelope was post-marked this date and the PCRA court received the petition on December 24, 2012. ***See Commonwealth v. Wilson***, 911 A.2d 942, 944 n.2 (Pa. Super. 2006) (discussing prisoner mailbox rule).

murder, therefore, tainted, the jury's verdict after the jury requested clarification from the court which resulted in [Appellant] receiving a sentence of life imprisonment.

Whether [Appellant,] a black defendant[,], was denied equal protection under the equal protection clause when he was put on trial before a jury from which members of his race have been purposely excluded yielded prejudice and violation of the constitution and law which undermin[ed] the truth-determining process.

Whether or not the Commonwealth of Pennsylvania violated [Appellant's] due-process right and federal and states constitutional laws of the Fifth and Fourteenth Amendments by [Appellant] being [in] shackles with leg iron and belly chain through out the whole trial proceedings yielded prejudice and violations of the constitution and law which undermin[ed] the truth-determining process.

Ineffective assistance of trial, appellate, and PCRA counsel yielded prejudice and violations of the constitution and law which so undermin[e] the truth-determining process.

Appellant's Brief at iii.

Before examining the merits of Appellant's claims, our Supreme Court has required this Court to examine whether we have jurisdiction to entertain the underlying PCRA petition. **See Commonwealth v. Fahy**, 737 A.2d 214, 223 (Pa. 1999). "Our standard of review of a PCRA court's dismissal of a PCRA petition is limited to examining whether the PCRA court's determination is supported by the evidence of record and free of legal error." **Commonwealth v. Wilson**, 824 A.2d 331, 333 (Pa. Super. 2003) (*en banc*) (citation omitted). A PCRA petition "must normally be filed within one year of the date the judgment becomes final . . . unless one of the

exceptions in § 9545(b)(1)(i)-(iii) applies and the petition is filed within 60 days of the date the claim could have been presented.” ***Commonwealth v. Copenhefer***, 941 A.2d 646, 648 (Pa. 2007) (internal citations and footnote omitted).

The PCRA’s timeliness requirements are jurisdictional in nature and must be strictly construed; courts may not address the merits of the issues raised in a petition if it is not timely filed. It is the petitioner’s burden to allege and prove that one of the [three] timeliness exceptions applies.

***Commonwealth v. Abu-Jamal***, 941 A.2d 1263, 1267-68 (Pa. 2008) (internal citations omitted).

The three timeliness 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. § 9545(b)(1)(i)-(iii).

Instantly, we examine whether the PCRA court erred by holding Appellant’s ninth PCRA petition was untimely. ***See*** 42 Pa.C.S. § 9545(b)(1), (2); ***Abu-Jamal***, 941 A.2d at 1267-68. With respect to his direct appeal,

the Pennsylvania Supreme Court denied Appellant's petition for allowance of appeal on September 12, 1994. Appellant's judgment of sentence became final on Monday, December 12, 1994, ninety-one days after the Pennsylvania Supreme Court denied *allocatur*.<sup>3</sup>

Appellant filed the instant, serial petition on December 21, 2012, over eighteen years later.<sup>4</sup> Thus, this Court must discern whether the PCRA court erred in concluding Appellant did not plead and prove one of the three timeliness exceptions. **See** 42 Pa.C.S. § 9545(b)(1)(i)-(iii); **Copenhefer**, 941 A.2d at 648.

In this case, Appellant has not pleaded or proved any of the timeliness exceptions. **See** 42 Pa.C.S. § 9545(b)(1)(i)-(iii). Accordingly, we agree with the PCRA court's determination that Appellant has not proved one of the three timeliness exceptions. **See Abu-Jamal**, 941 A.2d at 1267-68;

---

<sup>3</sup> 1 Pa.C.S. § 1908 ("Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation."); Sup. Ct. R. 13; **see generally** David B. Sweet, Annotation, *Time Requirements Under Supreme Court Rule 13 (and Similar Predecessors) for Petitions for Writ of Certiorari—Supreme Court Cases*, 112 L. Ed. 2d 1278 (2008).

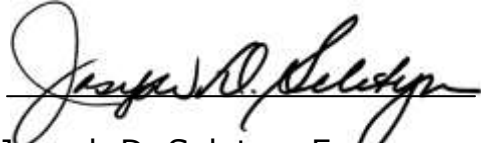
<sup>4</sup> Further, because Appellant's serial petition was filed after January 16, 1996, he could not take advantage of the timeliness exception discussed in **Commonwealth v. Banks**, 726 A.2d 374, 376 (Pa. 1999). **See id.** (holding PCRA "provides that a petitioner whose judgment has become final prior to the effective date of the act[, i.e., January 16, 1996,] shall be deemed to have filed a timely petition . . . if the petitioner's first petition is filed within one year of the effective date of the act").

J. S66039/13

**Copenhefer**, 941 A.2d at 648. Thus, the PCRA court lacks jurisdiction to consider his petition. **See Fahy**, 737 A.2d at 223. Having discerned no error of law, we affirm the order below. **See Wilson**, 824 A.2d at 333.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 11/25/2013