

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

RICARDO GATES,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1752 MDA 2012

Appeal from the Order of September 4, 2012,  
in the Court of Common Pleas of Dauphin County,  
Criminal Division at No. CP-22-CR-0001139-1993

BEFORE: SHOGAN, MUNDY and COLVILLE\*, JJ.

MEMORANDUM BY COLVILLE, J.

**FILED MAY 30, 2013**

This is a *pro se* appeal from the order dismissing Appellant's serial petition filed pursuant to the Post Conviction Relief Act ("PCRA"). He raises multiple claims for our review. We affirm.

Appellant filed the instant PCRA petition, *pro se*, on February 22, 2012. It was facially untimely, as it was filed more than a decade after his 1994 judgment of sentence became final. **See** 42 Pa.C.S.A. § 9545(b)(1) (providing that a PCRA petition should normally be filed within one year of the date on which the judgment of sentence becomes final). After the appointment of counsel, an evidentiary hearing and the permitted withdraw of counsel, the PCRA court dismissed the petition. This appeal followed.

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\*Retired Senior Judge assigned to the Superior Court.

Our standard of review of the denial of PCRA relief is limited to examining whether the court's rulings are supported by the evidence of record and free of legal error. **Commonwealth v. Anderson**, 995 A.2d 1184, 1189 (Pa. Super. 2010). Further, it is an appellant's burden to persuade this Court that the PCRA court erred and that relief is due. **Commonwealth v. Bennett**, 19 A.3d 541, 543 (Pa. Super. 2011).

Appellant first raises two issues concerning PCRA court error at the hearing held on his petition; however, Appellant did not raise these claims to the PCRA court at the hearing. Thus, they are waived. Pa.R.A.P. 302(a).

Appellant's next two issues concern the ineffective assistance of his counsel at the PCRA hearings. These claims also are waived because Appellant failed to raise them before the PCRA court. **Id.**; **Commonwealth v. Pitts**, 981 A.2d 878, 880 n.4 (Pa. 2009).

Appellant's next issue concerns his attempt to avoid the facial untimeliness of his petition by asserting the applicability of a recent United States Supreme Court decision, **Martinez v. Ryan**, 132 S.Ct. 1309 (2012). This Court has determined that **Martinez** has no applicability to Pennsylvania PCRA jurisprudence. **Commonwealth v. Saunders**, 60 A.3d 162 (Pa. Super. 2013). Accordingly, Appellant is not entitled to any relief on this basis; his petition was untimely.

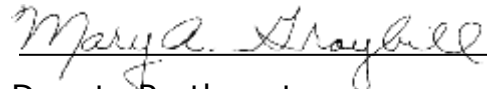
Appellant's final two issues concern the merits of his PCRA petition. As his petition was untimely, no court in Pennsylvania has jurisdiction to consider the merits of the petition. **Commonwealth v. Monaco**, 996 A.2d 1076, 1079 (Pa. Super. 2010).

Order affirmed.

Judge Shogan concurs in the result.

Judge Mundy concurs in the result.

Judgment Entered.

  
Deputy Prothonotary

Date: 5/30/2013