

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
RONMEL WILLIAMS,	:	
	:	
Appellant	:	No. 1822 EDA 2012

Appeal from the PCRA Order entered on May 11, 2012  
in the Court of Common Pleas of Lehigh County,  
Criminal Division, No. CP-39-CR-0003755-2009

BEFORE: FORD ELLIOTT, P.J.E., LAZARUS and MUSMANNO, JJ.

MEMORANDUM BY MUSMANNO, J.:

**FILED MAY 08, 2013**

Ronmel Williams (“Williams”), *pro se*, appeals from the Order denying his first Petition for relief filed pursuant to the Post Conviction Relief Act (“PCRA”).<sup>1</sup> We affirm.

On June 15, 2010, Williams pled guilty to two counts of criminal attempt (homicide).<sup>2</sup> The trial court sentenced Williams, on August 17, 2010, to two concurrent prison terms of 15 to 30 years. Williams filed a post-sentence Motion, which the trial court denied. Williams timely filed a direct appeal challenging the discretionary aspects of his sentence. On May 11, 2011, this Court denied Williams allowance of appeal from the

<sup>1</sup> 42 Pa.C.S.A. §§ 9541-9546.

<sup>2</sup> 18 Pa.C.S.A. § 901.

discretionary aspects of his sentence, concluding that the appeal was frivolous. **Commonwealth v. Williams**, 30 A.3d 535 (Pa. Super. 2011) (unpublished memorandum).

On May 27, 2011, Williams filed a Petition for review, which the trial court denied. On appeal, this Court entered a Judgment Order vacating the trial court's Order and remanding the matter. On remand, this Court directed that Williams's Petition be considered his first Petition for relief under the PCRA and that counsel be appointed to represent Williams. **Commonwealth v. Williams**, 47 A.3d 1236 (Pa. Super. 2012).

On remand, the PCRA court appointed Charles Banta, Esquire ("Attorney Banta"), to represent Williams. Attorney Banta subsequently filed a Petition to withdraw as counsel and a no-merit letter in accordance with **Commonwealth v. Turner**, 544 A.2d 927 (Pa. 1988) and **Commonwealth v. Finley**, 550 A.2d 213 (Pa. Super. 1988) (*en banc*). After a hearing, the PCRA court granted Attorney Banta's Petition to withdraw, and denied Williams's PCRA Petition. Thereafter, Williams filed the instant timely appeal.

Williams presents the following claims for our review:

1. Whether the [trial] court failed to properly and fully consider all of the factors that are required by the Pennsylvania Sentencing Code?
2. Whether the [trial] court abused its discretion by issuing sentence[es] on Highest Grade Offense pursuant to [Williams's] plea of guilty?

3. Whether the [trial] court abused its discretion on conviction [sic] to count 1 and 2 of "cause" [and] could "only" sentence highest grade offense pursuant to 42 Pa.C.S.A. § 9765,[<sup>3</sup>] 42 Pa.C.S.A. § 9721[<sup>4</sup>]?

Brief for Appellant at 7 (footnotes added).

In his *pro se* appellate brief, Williams claims that the trial court's sentence exceeded the maximum statutory penalty for a first offense with no prior record. *Id.* at 12. Williams argues that the statutory maximum penalty for a first offense is ten years, with a maximum five-year minimum prison term, and the right to release on parole after five years. *Id.* Upon review, we cannot grant Williams relief from the denial of his PCRA Petition.

Our review of the record discloses that Williams's sentence did not exceed the statutory maximum sentence for criminal attempt, as set forth at 18 Pa.C.S.A. § 1102(c).<sup>5</sup> Williams's concurrent sentences of 15 to 30 years are within the statutory maximum and are, in fact, within the standard range of the sentencing guidelines, assuming an offense gravity score of 0. Thus, Williams is not entitled to relief on this claim.

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<sup>3</sup> Section 9765 addresses the merger of sentences and is not applicable.

<sup>4</sup> Section 9721 addresses sentencing, generally, and is not applicable where, as here, there is a specific section applicable to the offense. *See* 1 Pa.C.S.A. § 1933 (setting forth the rule of statutory construction providing that "the specific provision controls the general one[.]")

<sup>5</sup> Section 1102(c) provides that "a person who has been convicted of attempt ... where serious bodily injury results may be sentenced to a term of imprisonment which shall be fixed by the court **at not more than 40 years.**" 18 Pa.C.S.A. § 1102(c) (emphasis added).

In his appellate brief, Williams also challenges the discretionary aspects of his sentence, arguing that the trial court's sentence was "manifestly excessive." Brief for Appellant at 12. The record reflects that Williams challenged the discretionary aspects of his sentence on direct appeal. ***Commonwealth v. Williams***, 30 A.3d 535 (Pa. Super. 2011) (unpublished memorandum). Because that claim was previously litigated, it is not cognizable under the PCRA. ***See*** 42 Pa.C.S.A. § 9543(a)(3) (requiring PCRA petitioners to plead and prove, *inter alia*, that a claim was not previously litigated). Accordingly, we cannot grant Williams relief on this claim. To the extent that Williams has raised additional claims in his Statement of Questions, we deem those claims without merit.

Discerning no error or abuse of discretion by the PCRA court, we affirm the Order denying Williams's PCRA Petition.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Kevin Gambetti", written over a horizontal line.

Prothonotary

Date: 5/8/2013