

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

AMEER AZIZ A/K/A CHARLES ALI,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1947 EDA 2012

Appeal from the PCRA Order of June 25, 2012,
in the Court of Common Pleas of Philadelphia County,
Criminal Division at Nos. CP-51-CR-0501341-1994
MC-51-CR-0930381-1995

BEFORE: BENDER, LAZARUS and COLVILLE*, JJ.

MEMORANDUM BY COLVILLE, J.:

Filed: February 26, 2013

Appellant Ameer Aziz appeals, *pro se*, from the order dismissing his petition filed under the Post Conviction Relief Act ("PCRA") on the basis that Appellant is ineligible for PCRA relief. We vacate and remand.

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).

We need not recite the procedural history of this case except to acknowledge the following. The instant PCRA petition, Appellant's first as to the relevant judgments of sentence, appears to be untimely. **See** 42

*Retired Senior Judge assigned to the Superior Court.

Pa.C.S.A. § 9545(b). If a PCRA petition is untimely, the PCRA court lacks jurisdiction to entertain the merits thereof. ***Commonwealth v. Frey***, 41 A.3d 605, 610 (Pa. Super. 2012). It also appears that Appellant is ineligible for PCRA relief because he has already completed these sentences. **See** 42 Pa.C.S.A. § 9543(a)(1)(i). Pennsylvania law is clear: those who have completed their sentences are ineligible for PCRA relief on those convictions, regardless of collateral consequences. ***Commonwealth v. Ahlborn***, 683 A.2d 632, 635 (Pa. Super. 1996). However, upon the filing of a first PCRA petition, an indigent petitioner is entitled to have the court appoint counsel to represent him. ***Commonwealth v. Ramos***, 14 A.3d 894, 896 (Pa. Super. 2011). Where a court has denied PCRA relief without appointing counsel for an indigent, first-time PCRA petitioner, this Court will vacate the court's order and remand for appointment of counsel and proper resolution of the PCRA petition. ***Id.*** Indeed, even where a PCRA petition appears to be untimely and/or the petitioner appears to be ineligible for PCRA relief, appointed counsel is required because, *inter alia*, a trained legal advocate might be able to overcome the apparent untimeliness and ineligibility for PCRA relief. ***Id.***

Thus, despite the apparent untimeliness of the petition and ineligibility for PCRA relief, Appellant, who appears to be proceeding *in forma pauperis*, was entitled to have court-appointed counsel represent him so that counsel could examine the issue of timeliness and eligibility and all other matters relevant to Appellant's potential for obtaining relief under the PCRA. In his PCRA petition, Appellant requested the appointment of counsel. For the

reasons set forth above, the court erred in not appointing counsel to represent Appellant.

Based on our foregoing discussion, we vacate the PCRA court's order and remand this case for proceedings consistent herewith.

Order vacated. Case remanded for proceedings consistent with this memorandum. Jurisdiction relinquished.