

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
HAROLD FRANKLIN FORD,	:	
	:	
Appellant	:	No. 1988 EDA 2012

Appeal from the PCRA Order entered on June 26, 2012  
in the Court of Common Pleas of Chester County,  
Criminal Division, No. CP-15-CR-0003457-2002

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

MEMORANDUM BY MUSMANNNO, J.:

**FILED MAY 15, 2013**

Harold Franklin Ford ("Ford") appeals, *pro se*, from the dismissal of his "Petition for Writ of State *Habeas Corpus*." We affirm.

After being found guilty of robbery and conspiracy, Ford was sentenced to 25 to 50 years in prison on June 30, 2003. This Court affirmed the judgment of sentence on July 12, 2004, and the Supreme Court of Pennsylvania denied allowance of appeal on April 19, 2005. **See Commonwealth v. Ford**, 859 A.2d 829 (Pa. Super. 2004) (unpublished memorandum), **appeal denied**, 872 A.2d 1198 (Pa. 2005). Thereafter, Ford filed numerous Petitions pursuant to the Post Conviction Relief Act ("PCRA").<sup>1</sup> **See Commonwealth v. Ford**, 37 A.3d 1239 (Pa. Super. 2011) (unpublished memorandum at 2 (detailing Ford's various PCRA Petitions)).

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

On December 27, 2011, Ford filed a "Petition for Writ of State *Habeas Corpus*." This Petition was treated as a PCRA Petition by the PCRA court. Thereafter, the PCRA court issued a Notice of intent to dismiss the Petition due to its untimeliness. After Ford filed a response to the Notice, the PCRA court dismissed the Petition on June 26, 2012. Ford filed a timely Notice of appeal.<sup>2</sup>

Initially, we must determine whether the relief Ford seeks is governed by the law of *habeas corpus* or whether it is subsumed by the PCRA. ***Commonwealth v. West***, 938 A.2d 1034, 1042-43 (Pa. 2007).

[W]e note that both the PCRA and the state *habeas corpus* statute contemplate that the PCRA subsumes the writ of *habeas corpus* in circumstances where the PCRA provides a remedy for the claim. [T]he scope of the PCRA eligibility requirements should not be narrowly confined to its specifically enumerated areas of review. Such narrow construction would be inconsistent with the legislative intent to channel post-conviction claims into the PCRA's framework, and would instead create a bifurcated system of post-conviction review where some post-conviction claims are cognizable under the PCRA while others are not.

***Commonwealth v. Stout***, 978 A.2d 984, 986 (Pa. Super. 2009) (citations omitted); ***see also*** 42 Pa.C.S.A. § 9542.

In his Petition for writ of *habeas corpus*, Ford claims that he was denied due process at sentencing and challenges the legality of his sentence under 42 Pa.C.S.A. § 9714, **Sentences for second and subsequent**

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<sup>2</sup> We note that Ford filed a "Pro Se Petition to Strike Judgment" on July 19, 2012, after he filed the Notice of appeal in the present case. After this Petition was dismissed by Order dated July 31, 2012, Ford filed an appeal to this Court, which was docketed at 2397 EDA 2012.

**offenses.**<sup>3</sup> These claims fall squarely within the confines of the PCRA. **See** 42 Pa.C.S.A. § 9543(a)(2); **see also Commonwealth v. Jackson**, 30 A.3d 516, 521 (Pa. Super. 2011) (stating that legality of sentence is a cognizable issue under the PCRA). Accordingly, the PCRA court properly considered the Petition as filed under the PCRA.

Under the PCRA, any PCRA petition, "*including a second or subsequent petition*, shall be filed within one year of the date the judgment becomes final[.]" 42 Pa.C.S.A. § 9545(b)(1) (emphasis added). The PCRA's timeliness requirements are jurisdictional in nature and a court may not address the merits of the issues raised if the PCRA petition was not timely filed. **Commonwealth v. Albrecht**, 994 A.2d 1091, 1093 (Pa. 2010).

Here, Ford's judgment of sentence became final on July 18, 2005, after the time to seek permission to appeal to the Supreme Court of the United States. **See** 42 Pa.C.S.A. § 9545(b)(3). Thus, Ford's instant Petition, filed in December 2011, is facially untimely as it was not filed within one year of the judgment of sentence becoming final. Further, Ford has not explicitly pled or proven any of the exceptions to the PCRA's timeliness requirements. **See** 42 Pa.C.S.A. § 9545(b)(1); **Albrecht**, 994 A.2d at 1094. Accordingly, the instant PCRA Petition was properly dismissed as untimely.

Order affirmed.

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<sup>3</sup> We note that Ford previously litigated this claim in his first PCRA Petition. This Court concluded that Ford was properly sentenced under section 9714. **See Commonwealth v. Ford**, 947 A.2d 1251, 1253-55 (Pa. Super. 2008).

J-S08036-13

Judgment Entered.

A handwritten signature in cursive script, appearing to read "Karen Gambitt", written over a horizontal line.

Prothonotary

Date: 5/15/2013