

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

MORRIS WILLIS,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1999 EDA 2012

Appeal from the PCRA Order of June 21, 2012,
in the Court of Common Pleas of Philadelphia County,
Criminal Division at No. CP-51-CR-0820513-1985

BEFORE: BENDER, LAZARUS and COLVILLE*, JJ.

MEMORANDUM BY COLVILLE, J.:

Filed: February 19, 2013

This is a *pro se* appeal from the order dismissing Appellant's *pro se* filing styled as a *habeas corpus* petition. We affirm.

The relevant facts, as summarized by a previous panel of this Court, are as follows:

On August 10, 1985, Willis was arrested and charged with first-degree murder and criminal conspiracy in connection with the shooting death of James Reynolds. After a jury trial, Willis was found guilty of the above crimes and was sentenced to life imprisonment. Willis appealed his judgment of sentence raising, *inter alia*, whether the trial court committed reversible error when it refused to instruct the jury to consider whether another individual, Francine Williams, was an accomplice in the murder of Reynolds. This Court affirmed Willis' sentence on March 23, 1989, finding the trial court correctly determined that Williams was not an accomplice to the murder and, accordingly, no error

*Retired Senior Judge assigned to the Superior Court.

occurred when the trial court refused to so charge the jury. ***Commonwealth v. Willis***, 556 A.2d 403, 409 (Pa. Super. 1989). Willis' petition for allowance of appeal was denied by our Supreme Court on July 2, 1990.

Willis filed a timely PCRA petition claiming, *inter alia*, his trial counsel was ineffective for failing to raise any challenge to the accomplice jury charge. The lower court denied his petition and this Court affirmed the decision on March 7, 1996, finding the trial court gave the correct jury instructions and the notion that trial counsel was ineffective for failing to object to the charge was a meritless claim. ***Commonwealth v. Willis***, 1874 EDA 2010 (filed March 7, 1996).

Commonwealth v. Willis, 4 A.3d 195 (Pa. Super. 2010) (unpublished memorandum at 1-2).

On June 6, 2008, Appellant filed his second PCRA petition, which the PCRA court dismissed as untimely. This Court affirmed the dismissal. ***Id.*** (unpublished memorandum).

On August 23, 2011, Appellant filed, *pro se*, the instant *habeas corpus* petition. On January 17, 2012, Appellant filed, *pro se*, an amended *habeas corpus* petition identical to his August 23, 2011, filing. The lower court treated Appellant's petition as a PCRA petition and dismissed it as untimely. This timely appeal followed.

Appellant argues it was error for the lower court to dismiss his *habeas corpus* petition as an untimely PCRA petition. Appellant baldly asserts he has no remedy under the PCRA and that his theories of relief entitle him to *habeas corpus* outside of the PCRA. We disagree.

Appellant's claims (trial court error and post-trial constitutional violations) are cognizable under the PCRA. 42 Pa.C.S.A. § 9543(a)(2)(i). Therefore, with respect to his claims, the writ of *habeas corpus* is subsumed by the PCRA. ***Commonwealth v. Stout***, 978 A.2d 984, 986 (Pa. Super. 2009); 42 Pa.C.S.A. § 9542 ("The action established in this subchapter shall be the sole means of obtaining collateral relief and encompasses all other common law and statutory remedies for the same purpose that exist when this subchapter takes effect, including habeas corpus and coram nobis."); 42 Pa.C.S.A. § 6503(b) ("[T]he writ of habeas corpus shall not be available if a remedy may be had by post-conviction hearing proceedings authorized by law."). Thus, the petition was properly treated as a PCRA petition.

Order affirmed.