

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellee

v.

AARON L. WILSON

Appellant

No. 2049 WDA 2013

Appeal from the PCRA Order November 26, 2013
In the Court of Common Pleas of Crawford County
Criminal Division at No(s): CP-20-CR-0000719-2001

BEFORE: GANTMAN, P.J., BENDER, P.J.E., and OTT, J.

JUDGMENT ORDER BY GANTMAN, P.J.:

FILED JUNE 23, 2014

Appellant, Aaron L. Wilson, appeals from the order entered in the Crawford County Court of Common Pleas, dismissing his serial petition filed under the Post Conviction Relief Act ("PCRA").¹ On July 3, 2001, fifteen-year-old Appellant killed the victim. Following trial, a jury convicted Appellant of first degree murder and related offenses. The court sentenced Appellant on December 19, 2002, to life imprisonment without the possibility of parole. This Court affirmed the judgment of sentence on October 6, 2004, and our Supreme Court denied his petition for allowance of appeal on September 21, 2005. ***See Commonwealth v. Wilson***, 864 A.2d 586 (Pa.Super. 2004), *appeal denied*, 584 Pa. 707, 885 A.2d 42 (2005).

¹ 42 Pa.C.S.A. §§ 9541-9546.

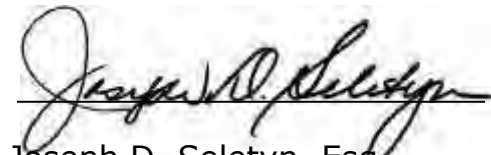
Appellant filed the current *pro se* PCRA petition on July 18, 2012. The PCRA court appointed counsel, who filed an amended petition on August 24, 2012. The PCRA court dismissed Appellant's petition on November 26, 2013. On December 23, 2013, Appellant timely filed a notice of appeal. The PCRA court ordered Appellant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b), and Appellant timely complied.

The timeliness of a PCRA petition is a jurisdictional requisite. ***Commonwealth v. Hackett***, 598 Pa. 350, 956 A.2d 978 (2008), *cert. denied*, 556 U.S. 1285, 129 S.Ct. 2772, 174 L.Ed.2d 277 (2009). A PCRA petition must be filed within one year of the date the underlying judgment becomes final. 42 Pa.C.S.A. § 9545(b)(1). A judgment is deemed final at the conclusion of direct review or at the expiration of time for seeking review. 42 Pa.C.S.A. § 9545(b)(3). The three statutory exceptions to the timeliness provisions in the PCRA allow for very limited circumstances under which the late filing of a petition will be excused. 42 Pa.C.S.A. § 9545(b)(1). A petitioner asserting a timeliness exception must file a petition within sixty days of the date the claim could have been presented. 42 Pa.C.S.A. § 9545(b)(2). When asserting the newly created constitutional right exception under section 9545(b)(1)(iii), "a petitioner must prove that there is a 'new' constitutional right and that the right 'has been held' by that court to apply retroactively." ***Commonwealth v. Chambers***, 35 A.3d 34, 41 (Pa.Super. 2011), *appeal denied*, 616 Pa. 625, 46 A.3d 715 (2012).

Instantly, Appellant's judgment of sentence became final on December 20, 2005. Appellant filed his current petition more than six years after the sentence became final; thus, the petition is patently untimely. **See** 42 Pa.C.S.A. § 9545(b)(1). Appellant attempts to invoke Section 9545(b)(1)(iii), contending his sentence is unconstitutional pursuant to **Miller v. Alabama**, ___U.S.___, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), and the U.S. Supreme Court has yet to decide whether to hear **Commonwealth v. Cunningham**, ___ Pa. ___, 81 A.3d 1 (2013). Nevertheless, our Supreme Court has ruled **Miller** does not apply retroactively to sentences which became final before the filing date of **Miller** (June 25, 2012). **See Cunningham, supra**. Moreover, the U.S. Supreme Court has now denied *certiorari* in **Cunningham**. **See Cunningham v. Pennsylvania**, 2014 WL 797250 (filed June 9, 2014). Thus, the PCRA court properly dismissed Appellant's petition.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 6/23/2014