

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

ANTONIO J. BUNDY,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 3565 EDA 2013

Appeal from the PCRA Order October 30, 2013
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0715041-1976

BEFORE: FORD ELLIOTT, P.J.E., BOWES, and SHOGAN, JJ.

MEMORANDUM BY BOWES, J.:

FILED JUNE 23, 2014

Antonio J. Bundy appeals *pro se* from the October 30, 2013 order dismissing his PCRA petition as untimely. We affirm.

A jury found Appellant guilty of second-degree murder, robbery, resisting arrest, and weapons offenses arising from the robbery and knifing of a seventy-one-year-old Philadelphia man. Appellant was sentenced to life in prison on the murder charge and concurrent sentences on the other offenses. Our Supreme Court affirmed the judgment of sentence. ***Commonwealth v. Bundy***, 414 A.2d 130 (Pa. 1980). Appellant filed a PCHA petition, counsel was appointed, and after an evidentiary hearing, relief was denied. We affirmed on appeal. ***Commonwealth v. Bundy***, No. 2873 Phila. 1983 (Pa.Super. 1985). Three subsequent PCRA petitions have been dismissed as untimely.

Appellant filed the instant PCRA petition on October 12, 2012. Pa.R.Crim.P. 907 notice was issued advising Appellant that the court intended to dismiss the petition as untimely. The petition was dismissed on that basis by order filed October 30, 2013. Appellant timely appealed, and he identifies ten issues for our review.¹

Under the PCRA, any petition for post-conviction relief, including second or subsequent petitions, must be filed within one year of the date judgment of sentence became final. 42 Pa.C.S. § 9545(b)(1). Pursuant to former U.S. Supreme Court Rule 20, Appellant's sentence became final on July 15, 1980, sixty days after the Pennsylvania Supreme Court affirmed judgment of sentence on May 16, 1980. Hence, the instant PCRA petition, filed more than thirty years after judgment of sentence became final, was untimely unless Appellant pled facts sufficient to trigger one of the exceptions to the time bar enunciated in 42 Pa.C.S. § 9545(b)(1). Further, such a petition had to be filed within sixty days of the date when the claim could first have been presented. 42 Pa.C.S. § 9545(b)(2).

Appellant contends that his petition is timely and proffers three bases in support thereof. First, he maintains that the refusal of the suppression

¹ In his statement of the questions resented, Appellant alleges that the lower court violated the timeliness provision, the Pennsylvania and the federal Constitutions, committed fraud, prejudice, and a miscarriage of justice, violated government interference, the illegal sentence provision, the judge's sworn oath of office, and Rule 907.

and trial courts and trial counsel to take their sworn oaths of office rendered the proceedings illegitimate and fraudulent and constituted governmental interference. Assuming those facts to be true, however, the governmental interference exception is inapplicable. That exception requires proof that a petitioner was prevented by government officials from timely raising his claim. ***Commonwealth v. Abu-Jamal***, 941 A.2d 1263 (Pa. 2008). Appellant offers no explanation as to how the refusal to take an oath of office interfered with his ability to timely present his claim. Furthermore, he fails to allege when he discovered this alleged interference, and substantiate that he filed the instant petition within sixty days of that date. Thus, the exception cannot be invoked.

Second, Appellant's allegation is that his sentence is illegal and that fact circumvents the time bar. While that issue cannot be waived, it must be raised in a timely PCRA petition in order to afford relief. ***See Commonwealth v. Taylor***, 65 A.3d 462, 465 (Pa.Super. 2013).

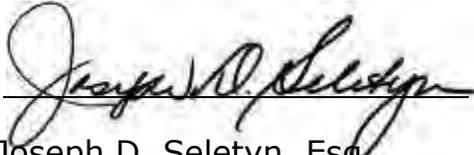
Finally, Appellant's position that the one-year time bar is not jurisdictional flies in the face of well-established law. ***See Commonwealth v. Ali***, 86 A.3d 173, 177 (Pa. 2014) (reiterating that, "PCRA's time limits are jurisdictional in nature, implicating a court's very power to adjudicate a controversy").

For all of the foregoing reasons, Appellant's PCRA petition was properly dismissed as untimely.

Order affirmed.

J-S38029-14

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