

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

v.

ALVIN E. GRANDBERRY, III

Appellant

No. 2104 MDA 2015

Appeal from the Order Entered November 9, 2015  
in the Court of Common Pleas of Dauphin County Criminal Division  
at No(s): CP-22-CR-0004931-2011

BEFORE: MUNDY, STABILE, and FITZGERALD,\* JJ.

JUDGMENT ORDER BY FITZGERALD, J.:

**FILED JULY 12, 2016**

Appellant, Alvin E. Grandberry, III, appeals from the order of the Dauphin County Court of Common Pleas dismissing his petition for writ of *habeas corpus* for raising the same claims previously presented in his untimely, first Post Conviction Relief Act ("PCRA"), 42 Pa.C.S. §§ 9541-9546, petition.<sup>1</sup> Appellant again asserts his sentence, which became final on August 13, 2012, was unconstitutional in light of ***Alleyne v. United States***, 133 S. Ct. 2151 (2013), and its Pennsylvania progeny.

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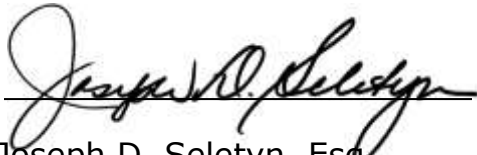
\* Former Justice specially assigned to the Superior Court.

<sup>1</sup> The dismissal of Appellant's first PCRA petition was affirmed by this Court in ***Commonwealth v. Grandberry***, 2092 MDA 2014 (Pa. Super. June 30, 2015) (unpublished memorandum).

Following our review, we agree with the PCRA court that no relief is due. We add: (1) the PCRA subsumes the writ of *habeas corpus*;<sup>2</sup> (2) claims asserting illegal or unconstitutional applications of mandatory minimum sentences are cognizable under the PCRA;<sup>3</sup> (3) Appellant's petition is properly viewed as a second PCRA petition;<sup>4</sup> and (4) because instant petition did not raise any claims that it was timely filed under the PCRA and Appellant's judgment of sentence became final before **Alleyn**e was decided on June 17, 2013, Appellant did not qualify for relief under **Ruiz**.<sup>5</sup>

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.  
Prothonotary

Date: 7/12/2016

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<sup>2</sup> **See Commonwealth v. Hackett**, 956 A.2d 978, 985 (Pa. 2008).

<sup>3</sup> **See Commonwealth v. Ruiz**, 131 A.3d 54, 60 (Pa. Super. 2015).

<sup>4</sup> **See Hackett**, 956 A.2d at 985; **Ruiz**, 131 A.3d at 60.

<sup>5</sup> **Ruiz**, 131 A.3d at 60 (holding PCRA petitioner may be entitled to relief where his petition is timely filed and his judgment of sentence had not yet become final).