

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
DAVE N. WILLIAMS,	:	
	:	
Appellant	:	No. 2740 EDA 2015

Appeal from the PCRA Order August 28, 2015
in the Court of Common Pleas of Philadelphia County,
Criminal Division, at No(s): CP-51-CR-1200771-2003

BEFORE: FORD ELLIOTT, P.J.E., STABILE, and STRASSBURGER,* JJ.

JUDGMENT ORDER BY STRASSBURGER, J.: **FILED AUGUST 16, 2016**

Dave N. Williams (Appellant) appeals *pro se* from the order entered August 28, 2015, dismissing his petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S. §§ 9541-9546.¹ We affirm.

Generally, a PCRA petition must be filed within one year from the date a judgment becomes final. There are three exceptions to this time requirement: (1) interference by government officials in the presentation of the claim; (2) newly discovered facts; and (3) an after-recognized constitutional right. When a petitioner alleges and proves that one of these exceptions is met, the petition will be considered timely. A PCRA petition invoking one of these exceptions must be filed within 60 days of the date the claims could have been presented. The timeliness requirements

¹ Appellant has also filed a motion requesting oral argument. He suggests that oral argument “is essential in understanding the points” Appellant is making in this case. The Rules of Appellate Procedure provide that “[a]ll parties shall submit post conviction relief cases on the briefs unless otherwise directed by the court on its own motion or upon application.” Pa.R.A.P. 2311. After reviewing Appellant’s brief and the record in this case, we conclude that oral argument is not necessary for our understanding of this matter. Accordingly, we deny Appellant’s motion.

*Retired Senior Judge assigned to the Superior Court.

of the PCRA are jurisdictional in nature and, accordingly, a PCRA court cannot hear untimely petitions.

Commonwealth v. Brandon, 51 A.3d 231, 233-34 (Pa. Super. 2012) (citations and quotation marks omitted).

Instantly, Appellant was convicted by a jury of first-degree murder and possessing an instrument of crime and was sentenced to life imprisonment on August 19, 2004. On May 31, 2007, this Court affirmed Appellant's judgment of sentence, and our Supreme Court denied Appellant's petition for allowance of appeal on December 28, 2007. **Commonwealth v. Williams**, 929 A.2d 249 (Pa. Super. 2007), *appeal denied*, 940 A.2d 365 (Pa. 2007). Appellant did not file a writ of *certiorari* to the United States Supreme Court; thus, his judgment of sentence became final ninety days later, on March 27, 2008. **See** U.S. Sup. Ct. Rule 13. Accordingly, Appellant had until March 27, 2009, to file timely a PCRA petition.²

The instant petition, filed on December 15, 2014, is patently untimely. The PCRA court had no jurisdiction to entertain Appellant's petition unless he pled and offered proof of one or more of the three statutory exceptions to the time bar. **See** 42 Pa.C.S. § 9545(b)(1). Appellant failed to do so. Accordingly, the PCRA court properly dismissed his petition.

Order affirmed. Motion for oral argument denied.

² Appellant timely filed his first PCRA petition and was denied relief. Subsequently, Appellant untimely filed at least one other petition prior to filing the instant one.

J-S52040-16

Judgment Entered.



Joseph D. Seletyn, Esq.

Prothonotary

Date: 8/16/2016