

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

RONALD FRANK,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1662 MDA 2016

Appeal from the PCRA Order September 12, 2016  
In the Court of Common Pleas of Cumberland County  
Criminal Division at No(s): CP-21-CR-0002091-2009, CP-21-CR-0002094-  
2009

BEFORE: SHOGAN, RANSOM, and MUSMANNO, JJ.

JUDGMENT ORDER BY SHOGAN, J.:

**FILED JULY 18, 2017**

Appellant, Ronald Frank, appeals from the order entered in the Cumberland County Court of Common Pleas dismissing his second petition filed under the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S. §§ 9541-9546. Following a bench trial on stipulated facts, Appellant was found guilty of numerous sexual offenses against four minor male victims he met while working as a crossing guard at a middle school. The court sentenced Appellant to an aggregate term of imprisonment of fifteen to thirty years, and this Court affirmed the judgment of sentence. ***Commonwealth v. Frank***, 26 A.3d 1207, 1446 MDA 2010 (Pa. Super. 2011) (unpublished memorandum).

Appellant filed a *pro se* PCRA petition on April 22, 2014, and counsel was appointed. The PCRA court dismissed the petition as untimely on November 6, 2014. This Court affirmed on February 3, 2016, concluding that the petition was untimely and no exception to the time-bar was pleaded or proven. ***Commonwealth v. Frank***, 141 A.3d 586 (Pa. Super. 2016) (unpublished memorandum). Appellant filed a petition for allowance of appeal on February 22, 2016.

While the petition for allowance of appeal was pending in our Supreme Court, Appellant filed the instant second *pro se* PCRA petition on July 24, 2016. The PCRA court dismissed the petition on September 12, 2016.<sup>1</sup> Appellant filed the instant appeal on October 2, 2016, a concise statement of errors pursuant to Pa.R.A.P. 1925 on October 27, 2016, and the PCRA court filed a memorandum opinion on November 30, 2016.

We conclude the PCRA court properly dismissed Appellant's July 24, 2016 petition. "When an appellant's PCRA appeal is pending before a court, a subsequent PCRA petition cannot be filed until the resolution of review of the pending PCRA petition by the highest state court in which review is sought, or upon the expiration of the time for seeking such review." ***Commonwealth v. Lark***, 746 A.2d 585, 588 (Pa. 2000); ***see also***

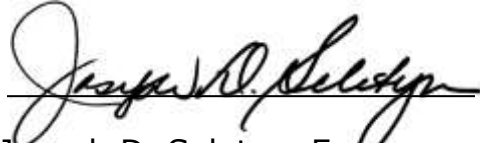
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<sup>1</sup> The Pennsylvania Supreme Court subsequently denied Appellant's petition for allowance of appeal on September 28, 2016. ***Commonwealth v. Frank***, 158 A.3d 86, 346 MAL 2016 (Pa. 2016).

***Commonwealth v. Porter***, 35 A.3d 4, 14 (Pa. 2012) (***Lark*** precludes PCRA court from entertaining a new PCRA petition when a prior petition remains under review on appeal).

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: 7/18/2017