

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

v.

MUSTAFA C. THOMAS

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 2436 EDA 2014

Appeal from the PCRA Order August 14, 2014
in the Court of Common Pleas of Philadelphia County Criminal Division
at No(s): No. CP-51-CR-0916841-1993

BEFORE: OLSON, SOLANO, and FITZGERALD,* JJ.

MEMORANDUM BY FITZGERALD, J.:

FILED JULY 25, 2017

Appellant, Mustafa C. Thomas, appeals from the August 14, 2014 order dismissing, as untimely, his second petition filed under the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S. §§ 9541-9546.

On May 24, 2017, Appellant filed a Petition To Remand To Trial Court For Evidentiary Hearing Relating To Newly Discovered Evidence. Attached to this petition is a letter dated May 18, 2017 from the Philadelphia District Attorney's Office, which encloses various documents and states: "If you choose to seek a remand from the Superior Court to litigate claims that may arise from the attached documents, the Commonwealth will not oppose that request."

* Former Justice specially assigned to the Superior Court.

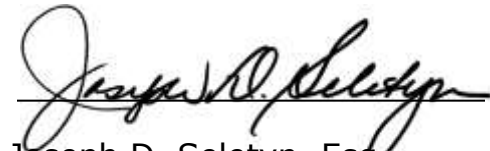
Based on this letter, Appellant requests that this Court remand this case to the Philadelphia Court of Common Pleas for an evidentiary hearing relating to newly discovered evidence. In view of the District Attorney's letter, we agree that remand is proper. Accordingly, we vacate the order denying Appellant's second PCRA petition and remand this case for further proceedings.

Order vacated. Appellant's Petition To Remand To Trial Court For Evidentiary Hearing Relating To Newly Discovered Evidence granted. Case remanded for further proceedings. Jurisdiction relinquished.

Judge Solano joins the memorandum.

Judge Olson files a concurring memorandum.

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: 7/25/2017