NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
ZAIEE TALBERT	:	
Appellant	:	No. 1154 EDA 2021

Appeal from the PCRA Order Entered May 10, 2021
In the Court of Common Pleas of Philadelphia County
Criminal Division at CP-51-CR-0009688-2012

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
ZAIEE TALBERT	:	
Appellant	:	No. 1155 EDA 2021

Appeal from the PCRA Order Entered May 10, 2021
In the Court of Common Pleas of Philadelphia County
Criminal Division at CP-51-CR-0009690-2012

BEFORE: NICHOLS, J., MURRAY, J., and SULLIVAN, J.

MEMORANDUM BY MURRAY, J.: **FILED JUNE 28, 2022**

Zaiee Talbert (Appellant) appeals from the order dismissing his second petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S.A. §§ 9541-9546. We affirm.

At approximately 8:00 p.m. on March 12, 2012, Appellant and his co-defendant, Lloyd Butler (Butler), fired numerous gunshots at Dexter Bowie

and Jonathan Stokely (collectively, the Victims), killing both men.[1] During the subsequent investigation, several witnesses (including Curtis Stokes (Stokes), Joseph Johnson Bey (Johnson), and Rahiem Aimes (Aimes)), gave statements to police inculpating Appellant in the crimes. Police arrested Appellant and Butler and charged them with two counts each of homicide and criminal conspiracy, and related offenses.

Appellant's first jury trial in February 2014 resulted in a mistrial. On retrial, the jury found Appellant guilty of two counts each of first-degree murder and conspiracy.[2] The jury found Appellant not guilty of possessing an instrument of crime. On January 30, 2015, the trial court sentenced Appellant to concurrent terms of life in prison for murder, and 20 - 40 years in prison for conspiracy.

This Court affirmed Appellant's judgment of sentence in December 2015, and the Supreme Court of Pennsylvania denied allowance of appeal. ***Commonwealth v. Talbert***, 129 A.3d 536 (Pa. Super. 2015), ***appeal denied***, 138 A.3d 4 (Pa. 2016).

Appellant filed a timely, first PCRA petition in August 2016. The PCRA court denied relief on January 25, 2018. This Court affirmed, and the Supreme

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[1] The PCRA court included a thorough recitation of the underlying facts in its Pa.R.A.P. 1925(a) opinion. ***See*** PCRA Court Opinion, 7/8/21, at 3-6.

[2] At trial, Stokes, Johnson, and Aimes recanted their statements, claiming the detectives who interviewed them coerced them into giving false statements. The statements were admitted into evidence.

Court of Pennsylvania denied allowance of appeal. ***Commonwealth v. Talbert***, 201 A.3d 847 (Pa. Super. 2018) (unpublished memorandum), ***appeal denied***, 207 A.3d 284 (Pa. 2019).

On March 20, 2020, Appellant filed the instant, *pro se* PCRA petition. He claimed, *inter alia*, newly discovered evidence of misconduct committed by four police detectives involved in the investigation: Philip Nordo (Nordo), Thomas Gaul (Gaul), John Verrecchio (Verrecchio), and Tracy Byard (Byard) (the four Detectives). On June 26, 2020, the PCRA court issued Pa.R.Crim.P. 907 notice of intent to dismiss Appellant's petition without a hearing, after concluding the petition was untimely and lacked merit.

Appellant retained PCRA counsel, who filed an amended PCRA petition on July 31, 2020. Appellant claimed the four Detectives coerced Butler, Stokes, Johnson, and Aimes to give false police statements implicating Appellant. ***See*** Amended PCRA Petition, 7/31/20, at 6-22, 27-31. In support, Appellant referenced the outcomes of numerous unrelated criminal cases where one or more of the four Detectives had purportedly engaged in some form of misconduct. ***See id.*** at 8-22. Appellant further claimed the Commonwealth had violated ***Brady v. Maryland***, 373 U.S. 83 (1963),[3] by withholding this evidence of misconduct. ***See*** Amended PCRA Petition,

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[3] ***See Brady***, 373 U.S. at 87 ("suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.").

7/31/20, at 8, 36-38. Appellant averred the "patterns of misconduct of[] Detectives Nordo, Gaul, Verrecchio, and Byard were not known by [Appellant] until after the [November 2014] trial, and could not have been obtained prior to trial through reasonable diligence." ***Id.*** at 23; ***see also id.*** (asserting the new evidence "has become only very recently known to [Appellant]."). Appellant claimed "this evidence would have led to the grant of a new trial." ***Id.*** at 27.

Appellant's PCRA counsel filed a supplemental amended PCRA petition on February 4, 2021. Appellant claimed he had recently learned of new, exculpatory facts from an affidavit executed by Anthony Small (Small) on December 29, 2020. Small's affidavit stated, in relevant part:

> After I learned about [Appellant's] case on Instagram recently, I started to reach out to a person who knew [Appellant]. I've learned [that Stokes] testified that he saw [Appellant] pull a handgun from under a car after he saw [the Victims] riding by on the four-wheeler. That is not true. [Appellant] never left the [street] corner [on which Small had seen Appellant standing, located blocks away from the scene of the shooting,] until after we all heard the gunshots.

Supplemental Amended PCRA Petition, 2/4/21, Ex. A at p. 2 (unnumbered).

The PCRA court conducted an evidentiary hearing on May 10, 2021 (PCRA hearing), where Small testified as the only witness.[4] The PCRA court summarized Small's testimony as follows:

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[4] The transcript from the hearing is not in the certified record; Appellant included a copy of it in his reproduced record. ***But see Commonwealth v.***

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> Small … testified that on the day of the shooting, he was sitting on the stairs outside his paramour Bianca's house located in the middle of the block on Sheridan Street in North Philadelphia with [] Stokes, an individual named Larry, and Larry's mother Kim. From his vantage point, Small recalled seeing [Appellant] standing on the corner of Sheridan Street and either Clearfield Street or Allegheny Avenue. Small further noted that at the time he observed [Appellant], it was sometime in the afternoon, as the sun was shining on a warm, clear day. After a conversation, Stokes and Kim told [Small] that they were going to a bar, and Small noticed a four-wheel all-terrain vehicle drive past the block multiple times. Small stated that [Appellant] remained on the corner of Sheridan Street while the vehicle passed the area. Some time after the vehicle passed the block, Small recalled hearing between fifteen to twenty-five gunshots from a location nearby, but far enough away to avoid a panic from people in the area. After the shooting, the police approached the area, and Small elected to walk away from the area with Stokes and Kim. As he was leaving, Small recalled noticing [Appellant] still standing on the corner. Small discovered that the gunfire resulted in a murder after watching a news report later that night. N.T., 5/10/2021, at 20-29.
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> Small did not learn that Stokes testified in this matter or that [Appellant] had been arrested and convicted in the instant shooting until approximately eight years later in May or June of 2020, when [Small] saw an Instagram story image posted by user JBB012 about [Appellant's] incarceration. In response, Small contacted the user shortly thereafter, but took no further action. It wasn't until December 2020, when Small had a change of heart, that he reached out to the user again and provided his December 29, 2020 statement to PCRA counsel. ***Id.*** at 29-36.

Bracalielly, 658 A.2d 755, 763 (Pa. 1995) ("appellate courts may only consider facts which have been duly certified in the record on appeal. An item does not become part of the certified record by simply copying it and including it in the reproduced record." (citations omitted)); ***see also Commonwealth v. Bongiorno***, 905 A.2d 998, 1000 (Pa. Super. 2006) (*en banc*) ("Our law is unequivocal that the responsibility rests upon the appellant to ensure that the record certified on appeal is complete in the sense that it contains all of the materials necessary for the reviewing court to perform its duty.").

PCRA Court Opinion, 7/8/21, at 6-7 (citations modified). Appellant requested, and the PCRA court granted, several continuances between Appellant's filing of his March 20, 2020, *pro se* PCRA petition and the evidentiary hearing.

By order entered May 10, 2021, the PCRA court dismissed Appellant's PCRA petition. Appellant timely filed a motion for reconsideration ten days later. Appellant detailed, *inter alia*, new evidence that purportedly corroborated the testimony of Small at the PCRA hearing. ***See*** Motion for Reconsideration, 5/20/21, at ¶¶ 6-14. Appellant further argued the PCRA court erred in precluding him from presenting testimony from Dallas Roberts at an evidentiary hearing. ***Id.*** at ¶¶ 17-24; ***see also id.*** at ¶ 18 (asserting Johnson's recantation of his police statement at Appellant's trial "was corroborated by Dallas Roberts[,] who was on the phone with [Johnson] when the shooting occurred and confirms that [Johnson] did not observe the shooting but was nearby when it occurred."). Finally, Appellant claimed certain new evidence and affidavits established that Aimes, not Appellant, conspired with Butler and murdered the Victims. ***Id.*** at ¶¶ 25-31, 36-37.

The PCRA court denied Appellant's motion for reconsideration on May 28, 2021. This timely appeal followed. Both Appellant and the PCRA court have complied with Pa.R.A.P. 1925.

Appellant presents three issues for our consideration:

> 1.) Did the lower court err in denying the amended PCRA petition based upon newly discovered evidence and a ***Brady*** claim, where there was newly discovered facts/evidence of police misconduct; a newly discovered witness who testified that

> Appellant was not at the scene of the crime when the shooting occurred; and another witness who would have demonstrated that the testimony of the lone eyewitness was coerced?
>
> 2.) Did the lower court err in not permitting one Dallas Roberts to testify about how the lone eyewitness who implicated Appellant was not at the scene of the shooting when it occurred and did not observe Appellant shoot anyone?
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> 3.) Did the lower court also err in not granting reconsideration after new evidence, not theretofore[] presented to that court, compelled the grant of a new trial?

Appellant's Brief at 2 (reordered; some capitalization omitted).

Before discussing the merits of Appellant's claims, we must address the timeliness of his PCRA petition.[5] All PCRA petitions must be filed within one year of the petitioner's judgment of sentence becoming final. ***See*** 42 Pa.C.S.A. § 9545(b)(1). A judgment of sentence becomes final "at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review." ***Id.*** § 9545(b)(3). "If a PCRA petition is untimely, neither this Court nor the [PCRA] court has jurisdiction over the petition." ***Commonwealth v. Reid***, 235 A.3d 1124, 1140 (Pa. 2020) (citation omitted).

Appellant's sentence became final on August 1, 2016, ninety days after the Pennsylvania Supreme Court denied *allocatur*. Appellant did not file the

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[5] Only Appellant's claims advanced in connection with his first issue implicate timeliness concerns. His second and third issues implicate discretionary rulings by the PCRA court.

instant PCRA petition until March 20, 2020, over three years after his judgment of sentence became final. Accordingly, the petition is facially untimely.

Pennsylvania courts may consider an untimely PCRA petition if the petitioner pleads and proves an exception in 42 Pa.C.S.A. § 9545(b)(1)(i)-(iii). Any petition invoking one of these exceptions "shall be filed within one year of the date the claim could have been presented." ***Id.*** § 9545(b)(2).

Appellant has invoked the newly discovered fact exception, set forth in subsection 9545(b)(1)(ii). Appellant summarizes his claim as follows:

> There were three main prongs of newly discovered facts presented. The first was the testimony of [] Small, who testified that [Appellant] was near him, and blocks away from the crime scene when the shots killing [the Victims] were fired. The second was police misconduct which permeated this case. Third, was the statement of Dallas Roberts [(Roberts),] who was on the phone with [] Johnson when the shootings in this case occurred. [Roberts] heard Johnson excitedly exclaim that shots were just fired and that while [Johnson] was near the shootings, he did not observe them, which is consistent with his testimony at trial.

Appellant's Brief at 8.

Concerning the newly discovered fact exception, we have explained it

> requires a petitioner to demonstrate he did not know the facts upon which he based his petition and could not have learned those facts earlier by the exercise of due diligence. Due diligence demands that the petitioner take reasonable steps to protect his own interests. A petitioner must explain why he could not have learned the new fact(s) earlier with the exercise of due diligence. This rule is strictly enforced. Additionally, the focus of this exception is on the newly discovered facts, not on a newly discovered or newly willing source for previously known facts.

Commonwealth v. Brown, 111 A.3d 171, 176 (Pa. Super. 2015) (citations omitted).

We first address whether Appellant's claim of police misconduct, and the attendant ***Brady*** claim, meets the requirements of the newly discovered fact exception. The PCRA court concluded these claims did not meet the exception, reasoning as follows:

> [Appellant] fails to demonstrate that his claims concerning [police] misconduct and the attendant ***Brady*** claims meet [] the newly discovered fact … exception. While [Appellant] relies on recent court cases outlining alleged acts of misconduct taken by detectives Nordo, Gaul, Verrecchio, and Byard, allegations of misconduct in this case were presented at [Appellant's] trial[, *i.e.*, when Stokes, Johnson, and Aimes testified the four Detectives coerced them into giving false police statements implicating Appellant]. Even if the allegations are to be believed, the allegations do not constitute new facts, as [Appellant] would have been made aware of the alleged misconduct during the 2014 trial. In the meantime, [Appellant] has shepherded this case through the direct appeal process, and even filed a previous [PCRA] petition. While [Appellant] may not have been aware of any other allegations of misconduct, such information is only being provided to demonstrate the misconduct that allegedly occurred over the course of the instant investigation, for which he had been on notice. Accordingly, [Appellant] fails to demonstrate that the underlying fact was newly discovered, or that he acted with diligence to raise the instant claims.

PCRA Court Opinion, 7/8/21, at 10-11.

The PCRA court's reasoning is supported by the record, and we agree with its conclusion.[6] Although Appellant vaguely avers that the information

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[6] Even if Appellant had timely raised his allegation of police misconduct and ***Brady*** claim, we would conclude that these claims lack merit for the reasons
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regarding the misconduct of the four Detectives "has become only very recently known to [Appellant]," Amended PCRA Petition, 7/31/20, at 23, he does not explain why he "could not have learned those facts earlier by the exercise of due diligence." ***Brown***, ***supra***; ***see also Commonwealth v. Albrecht***, 994 A.2d 1091, 1094 (Pa. 2010) (holding petitioner failed to demonstrate the PCRA petition was timely where he offered no explanation of when he first learned of facts underlying his petition); ***Commonwealth v. Vega***, 754 A.2d 714, 718 (Pa. Super. 2000) (petitioner failed to establish the newly discovered fact exception where he "neglected to provide, in both his PCRA petition and in his brief, the date on which he learned of" the new fact); ***Commonwealth v. Fahy***, 959 A.2d 312, 315 (Pa. 2008) (PCRA's time limits are jurisdictional and "must be strictly construed."). Indeed, many of the unrelated cases implicating alleged misconduct by the four Detectives preceded Appellant's filing of his petition by several years. ***See*** Amended PCRA Petition, 7/31/20, at 8-22. Appellant also fails to establish that he filed his PCRA petition based on this evidence within one year of the date the claim could have been presented. ***See*** 42 Pa.C.S.A. § 9545(b)(2).

Appellant further claims Small's statement independently establishes the newly discovered fact exception. ***See*** Appellant's Brief at 8-11;

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advanced by the PCRA court in its opinion. ***See*** PCRA Court Opinion, 7/8/21, at 11-14.

Supplemental Amended PCRA Petition, 2/4/21, at ¶ 3. The PCRA court determined,

> [Appellant] filed his supplemental amended [PCRA] petition, containing the Small claim[,] less than two months [after Small submitted his affidavit to Appellant's PCRA counsel on December 29, 2021.] Based on this, [Appellant] meets the newly discovered fact exception with respect to this claim.

PCRA Court Opinion, 7/8/21, at 10. We agree. Accordingly, we address the merits of Appellant's claim implicating Small.

"Our standard of review for issues arising from the denial of PCRA relief is well-settled. We must determine whether the PCRA court's ruling is supported by the record and free of legal error." ***Commonwealth v. Spotz***, 171 A.3d 675, 678 (Pa. 2017). We review a PCRA court's decision for an abuse of discretion. ***Commonwealth v. Roney***, 79 A.3d 595, 603 (Pa. 2013). Finally, our Supreme Court has explained:

> The findings of a post-conviction court, which hears evidence and passes on the credibility of witnesses, should be given great deference. We will not disturb the findings of the PCRA court if they are supported by the record, even where the record could support a contrary holding.

Commonwealth v. Williams, 168 A.3d 97, 99 (Pa. 2017) (citation omitted).

In his first issue, Appellant argues the PCRA court abused its discretion in dismissing his PCRA petition and not affording him relief on the Small claim. ***See*** Appellant's Brief at 18, 24-28. Appellant contends the PCRA court's finding that Small's testimony was incredible "is not supported by the record,"

id. at 24, and claims "there was a plethora of facts that confirmed the Small testimony." ***Id.*** at 18.

The PCRA court opined Appellant's claim with respect to Small did not warrant relief:

> This court found Small's testimony too incredible to warrant relief in this matter. During the May 10, 2021 evidentiary hearing, Small repeatedly stated—a total of four times—that the … sun was shining when he saw [Appellant] on a street corner several blocks away from the location of the shooting. N.T., 5/10/21, at 23, 45-46. He further insisted that the instant shooting took place in the late afternoon. ***Id.*** This recollection stands in direct contradiction of the established and undisputed facts underlying this homicide. The instant shooting took place shortly after 8:00 p.m. on March 12, 2012, approximately one hour after the sun had set. While it may be true that Small observed [Appellant] at the street corner sometime that afternoon, that observation could not have taken place simultaneously with the instant shooting, which occurred at nighttime. Moreover, this court is concerned that, although Small apparently discovered [Appellant's] conviction in May or June of 2020, he did not provide a statement to [Appellant's] counsel or investigators until December 29, 2020, either six or seven months after communicating with [Appellant's] paramour about the case. Ultimately, Small's testimony is too inaccurate to justify granting a new trial.

PCRA Court Opinion, 7/8/21, at 15-16 (some capitalization and citations modified).

It is settled that this Court is bound by the PCRA court's credibility determinations, unless they are not supported by the record. ***Williams***, ***supra***; ***see also Commonwealth v. Flor***, 259 A.3d 891, 902 (Pa. 2021) (this Court must "view the evidence of record in a light most favorable to the Commonwealth, as the prevailing party below."). In the instant case, the record supports the PCRA court's credibility finding with respect to Small.

Appellant asks us to disturb the court's finding; we may not do so. ***See Williams***, ***supra***. Accordingly, Appellant's first issue does not entitle him to relief.

In his second issue, Appellant contends the PCRA court erred by precluding him from presenting the testimony of Roberts at an evidentiary hearing, regarding Roberts's exculpatory statement. ***See*** Appellant's Brief at 47-48. Appellant avers, "Roberts had given a statement under the name of Robert Dallas in 2017 and gave a second statement to [Appellant's PCRA c]ounsel before the [PCRA] hearing," *i.e.*, on December 29, 2020. ***Id.*** at 13. If Roberts had been permitted to testify, he would have stated (1) he was on the phone with Johnson at the time of the shooting of the Victims; and (2) Johnson stated during the call that he did not see the shooters, contrary to what Johnson had said in his police interview. ***See generally*** Appellant's Motion for Reconsideration, 5/20/21, Ex. F (Roberts's statement). Appellant claims Roberts's testimony "was extremely relevant and was more than for impeachment purposes," as it "would have bolstered the defense and allowed [Appellant] to cross-examine on police misconduct[.]" Appellant's Brief at 48.

It is settled that the "right to an evidentiary hearing on a post-conviction petition is not absolute." ***Commonwealth v. Grayson***, 212 A.3d 1047, 1054 (Pa. Super. 2019) (citation omitted). A PCRA petitioner is entitled to an evidentiary hearing "only where the petition presents genuine issues of material fact." ***Commonwealth v. Walker***, 36 A.3d 1, 17 (Pa. 2011); ***see***

also Grayson, 212 A.3d at 1054 ("if there are factual issues to be resolved, the PCRA court should hold an evidentiary hearing." (citation and quotation omitted)). "If a PCRA petitioner's offer of proof is insufficient to establish a *prima facie* case, or his allegations are refuted by the existing record, an evidentiary hearing is unwarranted." ***Commonwealth v. Eichinger***, 108 A.3d 821, 849 (Pa. 2014). We review a PCRA court's decision to deny a request for an evidentiary hearing for an abuse of discretion. ***Walker***, 36 A.3d at 17.

We discern no abuse of the PCRA court's discretion in precluding Appellant from presenting Roberts's testimony at an evidentiary hearing. Initially, **Appellant concedes Roberts's statement is "not strictly speaking, new evidence**[.]" Appellant's Reply Brief at 14 (emphasis added). Moreover, it is well settled that a PCRA petitioner cannot obtain PCRA review of previously litigated claims by presenting those claims again in a PCRA petition and setting forth new theories of relief in support thereof. ***Commonwealth v. Hutchins***, 760 A.2d 50, 55 (Pa. Super. 2000); ***see also*** 42 Pa.C.S.A. § 9543(a)(3) (providing previously litigated claims are not cognizable under PCRA). Appellant, in connection with his first PCRA petition, previously raised a claim concerning Roberts and the content of his phone call with Johnson; this Court affirmed the PCRA court's denial of relief without an evidentiary hearing on this matter. ***See Talbert***, 201 A.3d 847 at **18-19 (unpublished memorandum); ***see also id.*** at **19-20 (at Appellant's second

trial, the "jury heard that Mr. Johnson denied having given the police the information contained in his statement, and that he professed having no knowledge that Appellant was involved in the murders. Yet, the jury found Appellant guilty.").

Furthermore, pursuant to Pa.R.Crim.P. 902(A)(15), the "request for an evidentiary hearing **shall** include a signed certification as to each intended witness, stating the witness's name, address, and date of birth, and the substance of the witness's testimony." (emphasis added)); ***see also*** 42 Pa.C.S.A. § 9545(d)(1)(i) ("Where a petitioner requests an evidentiary hearing, the petition shall include a certification **signed by each intended witness** stating the witness's name, address, date of birth and substance of testimony and shall include any documents material to that witness's testimony." (emphasis added)). Here, Appellant did not provide a signed certification from Roberts. Rather, as the Commonwealth correctly observes, Appellant

> provided the court with an August 31, 2017 document entitled "Report of Interview" signed by investigator Kevin J. Murphy, in which Mr. Murphy detailed a conversation he had with Mr. Roberts. **That document was signed by Mr. Murphy, not Mr. Roberts** (Supplemental Amended PCRA Petition, Exhibit D). Then, after the [PCRA] evidentiary hearing had already taken place, [Appellant] provided the court with an **unsigned**, undated, typewritten statement purportedly from Mr. Roberts. Neither of these documents fulfilled the requirements of Pa.R.Crim.P. 902 and 42 Pa.C.S. § 9545(d)(1).

Commonwealth Brief at 21 (emphasis added).

Finally, the PCRA court determined that even if Appellant was able to demonstrate that Roberts could present admissible testimony,

> it would merely be used to impeach [Johnson's] trial testimony. Accordingly, [Roberts's] proposed testimony is insufficient to meet the [newly]-discovered evidence standard, and even if believed, would not be sufficient to warrant a new trial.

PCRA Court Opinion, 7/8/21, at 18. We agree. Accordingly, Appellant's second issue does not entitle him to relief.

In his final issue, Appellant argues the PCRA court erred in denying his motion for reconsideration regarding dismissal of the PCRA petition. ***See*** Appellant's Brief at 39-47; ***see also id.*** at 46-47 ("the only witnesses who inculpated [Appellant] in the shootings[, *i.e.*, purportedly Johnson and Stokes, gave police] statements [that] were the product of police coercion. … Both Johnson and Stokes recanted their testimony"); ***id.*** at 47 (asserting "Small … was unwavering in his declarations of [Appellant's] innocence").

"[T]he standard of review of a motion for reconsideration is limited to whether the trial court manifestly abused its discretion or committed an error of law." ***Dahl v. Ameriquest Mortg. Co.***, 954 A.2d 588, 593 (Pa. Super. 2008).

> An abuse of discretion will not be found based on a mere error of judgment, but rather occurs where the court has reached a conclusion that overrides or misapplies the law, or where the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will.

Commonwealth v. McGriff, 160 A.3d 863, 871 (Pa. Super. 2017) (citations omitted).

The PCRA court rejected Appellant's claim, reasoning as follows:

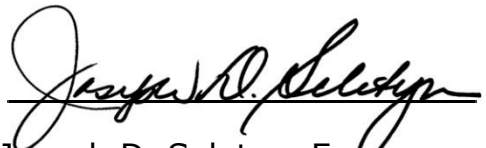
> While it appears that [Appellant] hopes to supplement his filings with additional evidence he seeks to discover over the course of an ongoing investigation, [Appellant] has not presented sufficient rationale to justify additional continuation of this matter. Over the course of this collateral proceeding, **this court granted continuances for further investigation** on July 30, 2020, October 22, 2020, and December 18, 2020[,] and ultimately presided over an evidentiary hearing on May 10, 2021. [**Appellant**] **had ample time to investigate his case and present his findings to the court and was able to do so through his lengthy and thorough findings and arguments**. This court denied [Appellant's] motion to reconsider because the evidence that he was able to produce, after months of investigation, was unreliable, inadmissible, or insufficient to warrant the granting of a new trial. This court was justified in denying the motion to reconsider, just as it was justified in dismissing the instant petition.

PCRA Court Opinion, 7/8/21, at 18-19 (emphasis added; some capitalization altered). The PCRA court's rationale is supported by the record, and we agree with its conclusion. Appellant's final issue fails.

Based on the foregoing, as we discern no abuse of the PCRA court's discretion or error of law, we affirm its order dismissing Appellant's second PCRA petition.

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 6/28/2022