

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellee

v.

TIMOTHY B. SNYDER

Appellant

No. 247 EDA 2013

Appeal from the PCRA Order December 20, 2012
In the Court of Common Pleas of Lehigh County
Criminal Division at No(s): CP-39-CR-0005533-2010

BEFORE: BOWES, J., PANELLA, J., and FITZGERALD, J.*

MEMORANDUM BY PANELLA, J.

FILED DECEMBER 04, 2013

Appellant, Timothy B. Snyder, appeals *pro se* from the order entered by the Honorable James T. Anthony, Court of Common Pleas of Lehigh County, that denied Snyder's petition pursuant to the Post Conviction Relief Act ("PCRA"). After careful review, we affirm.

On March 7, 2011, Snyder pled guilty to one count of burglary pursuant to a negotiated agreement with the Commonwealth. In return, the Commonwealth withdrew charges of criminal trespass, theft by unlawful taking, and receiving stolen property. Thereafter, on April 13, 2011, the trial court sentenced Snyder to a term of imprisonment of two to four years.

* Former Justice specially assigned to the Superior Court.

On March 30, 2012, Snyder filed a *pro se* "Writ of Habeas Corpus ad Subjiciendum." The PCRA court ruled that Snyder's filing constituted a petition that was governed by the PCRA, and appointed counsel to represent Snyder. On August 10, 2012, appointed counsel filed a "no-merit" letter¹ and a motion to withdraw as counsel. The PCRA court held a hearing and granted counsel's petition to withdraw on September 12, 2012. On September 26, 2012, the PCRA court issued notice of its intent to dismiss Snyder's petition, and Snyder filed objections to the court's notice. The PCRA court ultimately dismissed Snyder's petition on December 19, 2012. This timely appeal followed.

On appeal, Snyder raises 7 issues for our review:

- I. Whether the Court of Common Pleas erred in the act of treating appellant's Habeas Corpus Ad Subjiciendum as a PCRA filing?
- II. Whether the Court of Common Pleas is in violation of Article VI, Section 3 of the Pennsylvania Constitution by dismissing appellant's Habeas Corpus Ad Subjiciendum/PCRA?
- III. Whether the Court of Common Pleas erred in any way with the failure to prove and/or show its jurisdiction over the subject matter when such jurisdiction is formally denied and challenged?
- IV. Whether the Court of Common Pleas should have scheduled a hearing pursuant to appellant's Habeas Corpus Ad Subjiciendum/PCRA?
- V. Whether appointed counsel's No-Merit Letter was legally insufficient?

¹ Pursuant to the rules found in ***Commonwealth v. Turner***, 518 Pa. 491, 544 A.2d 299 (1988), and ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988) (*en banc*).

- VI. Whether the Court of Common Pleas erred by failing to address arguments that are amended to appellant's filing?
- VII. Whether the Court of Common Pleas made its decision with bias and or prior to knowing the full arguments in appellant's filings?

Appellant's Brief at 4.

In his first issue on appeal, Snyder contends that the trial court erred in treating his filing as a petition pursuant to the PCRA. The PCRA court held that Snyder's filing fell within the ambit of the PCRA due to the relief requested. The scope of the PCRA's eligibility requirements is to be construed broadly in accordance with the legislature's intent to provide a unitary system for collateral relief. **See Commonwealth v. Hackett**, 598 Pa. 350, 363, 956 A.2d 978, 986 (2008), **cert. denied** 129 S.Ct. 2772, 174 L.Ed.2d 277 (2009). As such, the PCRA subsumes state *habeas corpus* claims so long as the PCRA provides a possible remedy for the claim. **See id.**, 598 Pa. at 362, 956 A.2d at 985-986.

In the present case, Snyder's Writ of Habeas Corpus ad Subjiciendum requested the following relief: "dismissal of the charges as well as release from custody [pursuant to docket number] CP-39-CR-0005533-2010." Writ of Habeas Corpus ad Subjiciendum, 3/25/2012, at 12-13. A review of the allegations in his filing indicates that he requests this relief because he believes that the district attorney and trial court lacked the power to prosecute and convict him, respectively. These claims are cognizable pursuant to the PCRA, and therefore the PCRA court properly treated the

filing as a PCRA petition. **See** 42 Pa. Cons. Stat. Ann. § 9543(a)(2)(viii); ***Commonwealth v. Hackett***, 598 Pa. 350, 362-364, 956 A.2d 978, 985-986 (2008), *cert. denied* 129 S.Ct. 2772, 174 L.Ed.2d 277 (2009). As such, we conclude that Snyder's first issue on appeal merits no relief.

In his second issue, Snyder contends that the PCRA court violated the Pennsylvania Constitution in dismissing his PCRA petition. This argument takes the form of asserting that the dismissal of Snyder's petition was an act of treason. While Snyder does cite to a specific provision of the Pennsylvania Constitution, he does not provide any argument to support his assertion that the PCRA court violated the Constitutional provision. **See** Appellant's Brief, at 8. We therefore conclude that Snyder is due no relief on his second issue on appeal.

In his third issue on appeal, Snyder argues that the Court of Common Pleas of Lehigh County did not have jurisdiction to rule on his petition. Initially, we note that this argument contradicts the first paragraph of Snyder's petition, filed with the Court of Common Pleas of Lehigh County, which asserts "[t]his Honorable Court has jurisdiction to entertain this petition pursuant to Article V, Section 5(b) of the Pennsylvania Constitution and R.Crim.Proc. 108(a)." Writ of Habeas Corpus Ad Subjiciendum, at ¶ 1. In any event, by merely filing this petition in the Lehigh County Court of Common Pleas, Snyder consented to its jurisdiction in the matter. **See**

Commonwealth v. Judge, 568 Pa. 377, 388, 797 A.2d 250, 257 (2002).

We therefore conclude that Snyder's third issue on appeal merits no relief.

Next, Snyder argues that the PCRA court was required to hold a hearing on his contention that it lacked jurisdiction over his petition. As we concluded above that, as a matter of law, the PCRA court had jurisdiction over Snyder's petition, no hearing was necessary. **See** Pa.R.Crim.P., Rule 907(1), 42 Pa.Cons.Stat. Ann. As such, Snyder is due no relief on his fourth issue on appeal.

Snyder's appellate brief subsequently addresses the PCRA court's decision to grant appointed counsel's petition to withdraw. However, our review of the certified record indicates that Snyder did not raise this issue in his response to the PCRA court's notice of intent to dismiss. **See** Pro Se Motion/Petition Objecting to Dismissal of the Habeas Corpus Ad Subjiciendum Filed on 3/30/2012, filed 10/1/2012. As such, the issue is waived for purposes of appellate review. **See *Commonwealth v. Pitts***, 603 Pa. 1, 9, fn. 4, 981 A.2d 875, 880, fn. 4 (2009).

In his sixth issue on appeal, Snyder argues that the PCRA court erred by failing to address the issues raised in his amendment to his petition filed on October 5, 2012, after counsel was permitted to withdraw. However, our review of the amendment reveals that it did not raise any additional issues that were not present in the original petition. The continuing themes running through Snyder's petitions and briefs are that: 1) the trial court

lacked jurisdiction to sentence him; 2) the District Attorney's Office lacked the power to prosecute him; and 3) that, as a result, he was unlawfully incarcerated. The proposed amendment merely reiterates these themes, which were addressed in appointed counsel's no-merit letter and the PCRA court's decision. Snyder's brief does not identify any material difference in the issues raised in the original petition and his amendment. Accordingly, we conclude that Snyder's sixth issue on appeal merits no relief.

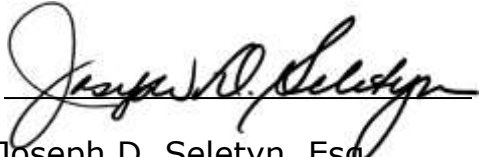
Finally, Snyder argues that PCRA court's decision was the result of bias "and/or prior to knowing the full argument(s) in appellant's filings." Appellant's Brief, at 12. Upon reading the argument supporting this issue, however, we conclude that this issue is identical to Snyder's sixth issue on appeal. Snyder argues that the PCRA court's reliance on appointed counsel's no-merit letter for its reasoning in dismissing Snyder's petition indicates bias since the PCRA court could not have considered his amendment filed after counsel was permitted to withdraw. As we have already concluded that the October 5, 2012 amendment raised no new issues, we must similarly conclude that this issue is meritless. Snyder's final issue on appeal merits no relief.

As we conclude that none of Snyder's issues on appeal merit relief, we affirm the PCRA court's order dismissing his petition.

Order affirmed. Jurisdiction relinquished.

J-S59022-13

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: 12/4/2013