

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

WILLIAM D. TURNER

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 2758 EDA 2012

Appeal from the PCRA Order September 13, 2012  
In the Court of Common Pleas of Philadelphia County  
Criminal Division at No(s): CP-51-CR-1007161-1980

BEFORE: GANTMAN, J., OLSON, J., and WECHT, J.

JUDGMENT ORDER BY GANTMAN, J.:

**FILED DECEMBER 09, 2013**

Appellant, William D. Turner, appeals *pro se* from the order entered in the Philadelphia County Court of Common Pleas that dismissed his serial petition for collateral relief as if filed under the Post Conviction Relief Act ("PCRA"), at 42 Pa.C.S.A. §§ 9541-9546. On February 20, 1981, a jury convicted Appellant of first-degree murder and possessing instruments of crime. The court imposed a sentence of life imprisonment on March 18, 1982. On May 20, 1983, this Court affirmed the judgment of sentence. **See *Commonwealth v. Turner*, 460 A.2d 858 (Pa.Super. 1983)** (unpublished memorandum). Our Supreme Court denied allowance of appeal on September 21, 1983 (according to the PCRA court and the Commonwealth). Appellant did not pursue further direct review.

On December 19, 1983, Appellant filed a *pro se* petition for post-conviction relief under the Post Conviction Hearing Act, the PCRA's predecessor. The court appointed counsel, who filed an amended petition, and the court subsequently denied relief. On February 16, 2011, Appellant filed a motion to modify sentence, which the court treated as a serial PCRA petition.<sup>1</sup> The court issued Pa.R.Crim.P. 907 notice on August 10, 2012; Appellant responded, and on September 13, 2012, the PCRA court dismissed Appellant's petition. Appellant timely filed a *pro se* notice of appeal on September 24, 2012. The court did not order Appellant to file a Pa.R.A.P. 1925(b) statement, and Appellant filed none.

The timeliness of a PCRA petition is a jurisdictional requisite. ***Commonwealth v. Hackett***, 598 Pa. 350, 956 A.2d 978 (2008). A PCRA petition must be filed within one year of the date the underlying judgment becomes final. 42 Pa.C.S.A. § 9545(b)(1). A judgment is deemed final at the conclusion of direct review or at the expiration of time for seeking review. 42 Pa.C.S.A. § 9545(b)(3). The three statutory exceptions to the timeliness provisions in the PCRA allow for very limited circumstances under which the late filing of a petition will be excused. **See** 42 Pa.C.S.A. §

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<sup>1</sup> The court properly treated Appellant's motion as a serial PCRA petition. **See** 42 Pa.C.S.A. § 9542 (stating PCRA shall be sole means of obtaining collateral relief and encompasses all other common law and statutory remedies for same purpose); ***Commonwealth v. Deaner***, 779 A.2d 578 (Pa.Super. 2001) (stating any collateral petition raising issues with respect to remedies offered under PCRA will be considered PCRA petition).

9545(b)(1). A petitioner asserting a timeliness exception must file a petition within 60 days of the date the claim could have been presented. 42 Pa.C.S.A. § 9545(b)(2). Instantly, our Supreme Court denied allowance of appeal from Appellant's judgment of sentence on September 21, 1983. Appellant did not seek further direct review. Therefore, his judgment of sentence became final on November 20, 1983, upon expiration of the time to file a petition for writ of *certiorari* with the United States Supreme Court.<sup>2</sup> Appellant filed his current, serial petition on February 16, 2011; thus, Appellant's petition is patently untimely. Appellant maintains the Commonwealth knowingly permitted a key witness to offer false testimony at Appellant's trial, constituting a fraud on the court that should render his petition timely. Appellant's bald assertion, however, does not satisfy any of the PCRA's limited timeliness exceptions.<sup>3</sup> **See** 42 Pa.C.S.A. § 9545(b)(2). Appellant also fails to demonstrate compliance with the PCRA's 60-day rule. **See id.** Thus, the court properly dismissed Appellant's petition as untimely.

Order affirmed.

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<sup>2</sup> **See** U.S.Sup.Ct.R. 20 (effective June 30, 1980; amended August 1, 1984 at U.S.Sup.Ct.R. 20.1) (allowing 60 days to file petition for writ of *certiorari*). United States Supreme Court Rule 13 is the current rule, which allows 90 days to file a petition for writ of *certiorari*. **See** U.S.Sup.Ct.R. 13.

<sup>3</sup> In addition, Appellant mentions the "new facts" exception to the PCRA's time restrictions, **see** 42 Pa.C.S.A. § 9545(b)(2)(ii), but fails to articulate how that exception applies to his case.

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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: 12/9/2013