

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

HOWARD LEE MCNEIL,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

NO. 3382 EDA 2012

Appeal from the PCRA Order October 31, 2012,  
in the Court of Common Pleas of Montgomery County,  
Criminal Division at No. CP-46-CR-0002439-1998

BEFORE: STEVENS, P.J., WECHT and COLVILLE\*, JJ.

MEMORANDUM BY COLVILLE, J.:

**FILED MAY 03, 2013**

This is a *pro se* appeal from the order dismissing as untimely the serial petition filed by Appellant pursuant to the Post Conviction Relief Act ("PCRA"). We affirm.

Appellant filed the instant PCRA petition, *pro se*, on September 5, 2012. It was facially untimely, as it was filed more than ten years after his 1999 judgment of sentence became final. **See** 42 Pa.C.S.A. § 9545(b)(1) (providing that a PCRA petition should normally be filed within one year of the date on which the judgment of sentence becomes final). However, Appellant asserted therein the application of 42 Pa.C.S.A. § 9545(b)(1)(iii), which provides an exception to the one-year rule if "the right asserted is a constitutional right that was recognized by the Supreme Court of the United

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\*Retired Senior Judge assigned to the Superior Court.

States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.” A petition alleging the application of such an exception must be filed within 60 days of when the claim could have been presented. 42 Pa.C.S.A. § 9545(b)(2).

The PCRA court dismissed the petition as untimely. Our standard of review of the denial of a PCRA petition is limited to examining whether the court's rulings are supported by the evidence of record and free of legal error. **Commonwealth v. Anderson**, 995 A.2d 1184, 1189 (Pa. Super. 2010).

In his PCRA petition, Appellant alleged that the “new constitutional right” exception applied based on two United States Supreme Court rulings: **Missouri v. Frye**, 132 S.Ct. 1399 (2012), and **Lafler v. Cooper**, 132 S.Ct. 1376 (2012). Both of these decisions were published on March 21, 2012. Appellant’s PCRA petition was filed more than 60 days thereafter; accordingly, for this reason alone, Appellant could not benefit from the exception.

Appellant argues that he filed the PCRA petition within 60 days of his discovery of the above-cited decisions and should thus qualify for application of the exception. This type of argument has been rejected by this Court. **Commonwealth v. Baldwin**, 789 A.2d 728, 731 (Pa. Super. 2001) (holding that petitioner’s ignorance of the law did not excuse his failure to file a PCRA petition within the 60 days following the relevant decision). Thus, we find no error in the PCRA court’s dismissal of the petition as untimely.

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Order affirmed.

President Judge Stevens concurs in the result.

Judgment Entered.

A handwritten signature in cursive script, appearing to read "Kevin Gambett", written over a horizontal line.

Prothonotary

Date: 5/3/2013