

2012 PA Super 269

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

CHRISTOPHER G. GLUNT,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 770 MDA 2012

Appeal from the Order of March 19, 2012,
in the Court of Common Pleas of Centre County,
Criminal Division at Nos. CP-14-CR-0001796-2002,
CP-14-CR-0001797-2002, CP-14-CR-0001798-2002,
CP-14-CR-0001799-2002

BEFORE: MUSMANNO, BENDER and COLVILLE*, JJ.

OPINION BY COLVILLE, J.:

Filed: December 11, 2012

This is a *pro se* appeal from the order which denied Appellant's *pro se* "Petition to Vacate/Correct Illegal Sentence. In the Interest of Justice." We affirm.

In his petition, filed February 23, 2012, Appellant claimed that the length of his 2003 judgment of sentence rendered it illegal.¹ The lower court denied the petition as untimely and without legal foundation. In its opinion filed pursuant to Pennsylvania Rule of Appellate Procedure 1925(a), the

¹ Appellant labels his challenge to his sentence as illegal; however, his challenge appears to be one that is properly characterized as one to the discretionary aspects of his sentence.

*Retired Senior Judge assigned to the Superior Court.

court noted that Appellant had litigated his judgment of sentence in a timely post-sentence motion and in a petition filed pursuant to the Post Conviction Relief Act (“PCRA”) and explained that it dismissed the instant petition because “Appellant has no legal authority to now file a Motion to Vacate/Correct Illegal Sentence.” We agree.

As a post-sentence motion, the petition was obviously untimely, **see** Pa.R.Crim.P. 720(A).² The lower court had no jurisdiction to grant relief on this petition. 42 Pa.C.S.A. § 5505. Appellant offers no legal authority or argument to the contrary. Accordingly, we affirm the order denying the petition.

Order affirmed.

² In the petition, Appellant did not seek relief pursuant to the PCRA. Because he sought relief available under the PCRA, **see** 42 Pa.C.S.A. § 9543(a)(2)(vii), the lower court could have elected to treat the petition as a PCRA petition, **see *Commonwealth v. Wrecks***, 931 A.2d 717, 720 (Pa. Super. 2007); however, it did not.