

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :  
 :  
 vs. : NO. 96-10,228  
 : 96-10,230  
 DARREN STILL, : 96-10,231  
 :  
 Defendant : PCRA DISMISSAL

*Date:* August 5, 2003

**OPINION and ORDER**

Before the Court for determination is the Post Conviction Relief Act (PCRA) Petition of Defendant Darren Still filed March 14, 2003. A conference was held before this Court concerning the PCRA petition on June 20, 2003. At the conference, this Court issued an order notifying Defendant of its intent to dismiss the petition as being untimely and for failing to demonstrate that the petition fell within one of the exceptions to the one-year time limit. The Court permitted Defendant to file a written response within twenty days of receipt of the order. The Defendant filed a response on July 24, 2003.

The Court will dismiss Defendant's PCRA petition as untimely. A trial court does not have jurisdiction to hear a PCRA petition if the petition was untimely filed. *Commonwealth v. Hutchinson*, 760 A.2d 50, 53 (Pa. Super. 2000). A PCRA petition must be filed within one year of the judgment becoming final. 42 Pa.C.S. § 9545(b)(1). A judgment becomes final at the conclusion of direct review, which includes discretionary review by the Supreme Court of Pennsylvania or the Supreme Court of the United States, or at the expiration of time for seeking the review. 42 Pa.C.S. §9545(b)(3);

*Hutchinson*, 760 A.2d at 53. The time limits prescribed by the statute will be strictly enforced because of their jurisdictional significance. *Commonwealth v. Vega*, 754 A.2d 714, 718 (Pa. Super. 2000).

The only way a petitioner can overcome the preclusive effect of the one-year requirement is by pleading and proving that one of the exceptions applies. *Commonwealth v. Davis*, 816 A.2d 1129, 1133 (Pa. Super. 2003). Those exceptions are: (1) “the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States;” (2) “the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence;” or (3) “the right asserted is a constitutional right that was recognized by the Supreme Court of the United 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.” 42 Pa.C.S. §9545(b)(1)(i)-(iii). If the case falls within one of these exceptions, the petition must still be filed within sixty days of the date the claim could have been presented. 42 Pa.C.S. §9545(b)(2); *Commonwealth v. Gamboa-Taylor*, 753 A.2d 780 (Pa. 2000).

This Court sentenced the Defendant on February 7, 1997. Defendant appealed his sentence to the Superior Court. The Superior Court affirmed the sentence and filed its decision on September 13, 2001. Defendant would have had thirty days from the date the Superior Court affirmed the judgment to seek appeal to the Supreme Court. *Hutchinson*, 760 A.2d at 53. Defendant took no

such action, and it has been over two years since the Defendant's judgment became final. Therefore, Defendant must plead that one of the exceptions applies.

Defendant's response filed July 24, 2003 asserts that the petition falls within the interference by government officials exception. Defendant posits two bases for this assertion. The first is that the failure of the his court appointed counsel to inform him of his one year deadline constitutes interference by a government official that undermines the truth determining process. This argument fails since the statute clearly states that the term "government officials" does not include defense counsel. 42 Pa.C.S. §9545(b)(4).

The second basis is that Lycoming County Clerk of Courts caused Defendant's case to "languish[] for four years." The Court is unsure what bearing this has on Defendant's failure to file the PCRA petition within the one-year period. It might be that Defendant is referring to the time period between his arrest and when the record was transmitted to the Superior Court (October 4, 1996 – September 6, 2000). If so, the Court fails to see how any alleged impropriety or dereliction by the Clerk of Courts prevented the Defendant from bringing his PCRA petition within the one year time period. During this time period, Defendant was still pursuing his direct appeal and his PCRA rights would not have been implicated. It has not been demonstrated that any conduct on the part of the Clerk of Courts during that period, or at any time since, interfered with Defendant's ability to pursue his PCRA rights.

Defendant filed his PCRA petition after the one-year period had expired. Defendant has failed to plead and prove that the petition falls within one of the exceptions to the time requirement. This

leaves the Court without jurisdiction to entertain the petition. Therefore, the Court will deny and dismiss Defendant's petition.

**ORDER**

It is hereby ORDERED that Defendant Darren Still's Post Conviction Relief Act Petition filed March 14, 2003 is denied and dismissed.

Defendant shall be notified of this opinion and order by certified mail, return receipt requested pursuant to Pa. R.Crim.P. 907(4).

Defendant is advised that he has the right to appeal this Court's denial and dismissal of his Post Conviction Relief Act Petition.

Defendant is further advised that he has thirty days in which to file his appeal.

A conference was scheduled on this matter in Courtroom 3 of the Lycoming County Courthouse on August 8, 2003 at 3:30 p.m. Because of the dismissal of the petition, there is no need for the conference. The conference may be removed from the Court's schedule.

BY THE COURT,

WILLIAM S. KIESER, JUDGE

cc: District Attorney (KO)  
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Darren Still #DF0332  
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Judges  
Christian J. Kalas, Esquire  
Gary L. Weber, Esquire, Lycoming Reporter  
#96-10,230; #96-10,231