

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA** : **No. 00-10,492**  
: **vs.** : **CRIMINAL DIVISION**  
: **JAMEEL MINCEY,** :  
**Defendant** : **PCRA**

**O R D E R**

AND NOW, this \_\_\_\_ day of February 2004, upon review of the record and pursuant to Rule 907(a) of the Pennsylvania Rules of Criminal Procedure, it is the finding of this Court that Defendant's Post Conviction Relief Act (PCRA) Petition filed in the above-captioned matter raises no genuine issue of fact and Petitioner is not entitled to post conviction collateral relief.

The Court lacks jurisdiction to address the merits of this case because the PCRA petition was not filed in a timely manner. Subject to three narrow exceptions, a PCRA petition must be filed within one year of the date the petitioner's judgment of sentence becomes final. 42 Pa.C.S.A. §9545(b)(1). A judgment becomes 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 timeliness requirements of the PCRA are jurisdictional in nature. Commonwealth v. Howard, 567 Pa. 481, 485, 788 A.2d 351, 353 (Pa. 2002); Commonwealth v. Palmer, 814 A.2d 700, 704-05 (Pa. Super. 2002).

"[W]hen a PCRA petition is not filed within one year of the expiration of direct review,

or not eligible for one of the three limited exceptions, or entitled to one of the exception, but not filed within 60 days of the date that the claim could have been first brought, the trial court has no power to address the substantive merits of a petitioner's PCRA claims."

Commonwealth v. Gamboa-Taylor, 562 Pa. 70, 77, 753 A.2d 780, 783 (Pa. 2000). Here, the petitioner pleaded guilty and was sentenced on or about August 1, 2000. He had thirty days within which to file an appeal, but he did not. Therefore, the petitioner's judgment became final on or about September 1, 2000. The petitioner filed his PCRA petition on or about August 20, 2003. To be timely, the PCRA petition had to be filed on or before September 1, 2001. After an initial conference, the Court gave defense counsel additional time to contact his client to see if there were any circumstances in this case that would fall within any of the exceptions to the one-year filing requirement and to amend the pro se PCRA petition accordingly. Defense counsel did not file an amended petition, because even after corresponding with the petitioner there was nothing counsel could allege to fall within one of the exceptions. Therefore, the Court finds that the petition is untimely and the Court lacks the power to address the merits of petitioner's claims.

As no purpose would be served by conducting any further hearing, none will be scheduled and the parties are hereby notified of this Court's intention to deny the Petition. Petitioner may respond to this proposed dismissal within twenty (20) days. If no response is received within that time period, the Court will enter an order dismissing the petition.

By The Court,

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Kenneth D. Brown, P.J.

cc: Kenneth Osokow, Esquire (ADA)  
William Kovalcik, Esquire  
Jameel R. Mincey, #EJ8915  
1 Kelly Dr, Coal Township, PA 17866  
Law Clerk  
Gary Weber, Esquire (Lycoming Reporter)