

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

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	
<b>v.</b>	:	<b>No. 99-10,715</b>
	:	<b>CRIMINAL DIVISION</b>
<b>JAMAL BENNETT,</b>	:	
<b>Defendant</b>	:	

**OPINION AND ORDER**

Before this Honorable Court, is the Defendant's Motion for Post Conviction Collateral Relief filed December 2, 2005. At the February 13, 2006 conference on this matter, the Commonwealth argued that, the Defendant's Motion should be dismissed because it was not filed within the one-year time limit required under the Post Conviction Relief Act and, none of the exceptions to that requirement apply; this Court agrees.

**Background**

On January 18, 2000, following a non-jury trial, this Court found the Defendant guilty of one count of criminal conspiracy and two counts each of delivery of a controlled substance, possession with intent to deliver, possession of a controlled substance, and possession of drug paraphernalia. On February 3, 2000, this Court sentenced the Defendant to undergo incarceration at a State Correctional Institution for an indeterminate period of time, the minimum of which is four (4) years and the maximum of which is ten (10) years. On February 15, 2006, the Defendant filed his Notice of Appeal and, on August 16, 2001, the Superior Court of Pennsylvania affirmed this Court's decision. The Defendant did not file his instant Motion for Post Conviction Collateral Relief until December 2, 2005.

## Discussion

To be eligible for relief under the Post Conviction Relief Act (hereinafter “PCRA”), defendants’ petitions must, *inter alia*, be filed within one year of the date that the judgment becomes final. 42 Pa.C.S.A. § 9545(b)(1) and Pennsylvania Rule of Criminal Procedure No. 901(A). The PCRA provides three narrow exceptions to the one-year filing requirement:

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.A. § 9545(b)(1).

Instantly, the judgment against the Defendant became final on August 16, 2001 when the Superior Court of Pennsylvania affirmed this Court’s sentence; consequently, the Defendant’s deadline to file a PCRA petition expired on August 16, 2002. Furthermore, the Court finds that none of the three exceptions to the PCRA’s one-year filing deadline apply to the instant matter.

Based upon the foregoing, the Court finds no purpose to conduct any further hearings and, pursuant to Pa.R.Crim.P. No. 907(1), the parties are hereby notified of this court’s intention to deny the Defendant’s Petition. The Defendant may respond to this proposed dismissal within twenty (20) days of the date of this Order. If no response is received within that time period, the Court will enter an Order dismissing the Petition.

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of February 2006, the Court hereby notifies the Defendant that it is the intention of the Court to dismiss his Amended PCRA Petition unless he files an objection to that dismissal within twenty days (20) of the date of this Order.

By the Court,

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Nancy L. Butts, Judge

cc: DA (KO)  
James R. Protasio, Esq.  
Judges  
Law Clerk  
Gary L. Weber, Esq.