

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR- 14-1989(89-10,014)
:
vs. : CRIMINAL DIVISION
:
:
JAMES R. PRINCE, :
Defendant : PCRA

ORDER

AND NOW, this ____ day of February 2007, upon review of the record and pursuant to Rule 907(1) of the Pennsylvania Rules of Criminal Procedure, the Court finds it is without jurisdiction to hold any proceedings or grant Defendant any relief because his Post Conviction Relief Act (PCRA) petition is untimely.

Any PCRA petition, including second or subsequent petitions such as this, must be filed within one year of the date the judgment of sentence becomes final, unless the petitioner pleads and proves governmental interference, after-discovered evidence or a new constitutional right that has been held to apply retroactively. 42 Pa.C.S.A. §9545(b)(1). A judgment becomes final “at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.” 42 Pa.C.S.A. §9545(b)(3).

Defendant’s direct, nunc pro tunc appeal was decided by the Pennsylvania Superior Court in a memorandum decision dated May 3, 1994. Defendant had thirty days within which to file a petition for allowance of appeal. The Court believes Defendant did not file such a petition because the record was remanded to Lycoming County on June 7, 1994. Therefore, Defendant’s judgment became final on June 2, 1994. Defendant

filed his current PCRA petition on February 21, 2007. The petition does not allege any of the exceptions set forth in Section 9545(b)(1). Therefore, the petition is untimely and the Court lacks jurisdiction to hold an evidentiary hearing or grant Defendant relief.

Commonwealth v. Howard, 567 Pa. 481, 489, 788 A.2d 351, 356 (2002); Commonwealth v. Murray, 562 Pa. 1, 5, 753 A.2d 201, 202-03 (2000); Commonwealth v. Palmer, 814 A.2d 700, 705 (Pa.Super. 2002); Commonwealth v. Fairiror, 809 A.2d 396, 398 (Pa.Super. 2002).

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. Defendant 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,

Kenneth D. Brown, P.J.

cc: Kenneth Osokow, Esquire (ADA)
James R. Prince, #BD1801
1100 Pike Street, Huntingdon, PA 16654-1112
Work file
Gary Weber, Esquire (Lycoming Reporter)