

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	No. 04-10,505
	:	CRIMINAL DIVISION
SHANDY THOMPSON,	:	
Defendant	:	PCRA

OPINION AND ORDER

Before this Honorable Court, is the Defendant’s September 6, 2007 Petition for Relief under the Post Conviction Relief Act (PCRA). A “no merit” letter has been submitted to the Court by PCRA counsel for the Defendant, Gregory D. Drab, Esq., in compliance with the requirements of *Commonwealth v. Turner*, 518 Pa. 491, 544 A.2d 927 (1988). After an independent review of the entire record, the Court finds it is without jurisdiction to hold any proceedings or grant Defendant any relief because his PCRA Petition is untimely.

Under 42 Pa.C.S. § 9545(b)(1), any PCRA Petition, “including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final,” unless the petitioner pleads and proves that one of the three statutory exceptions apply. “[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.” § 9545(b)(3).

On September 7, 2004, Defendant entered a plea of guilty to Involuntary Deviate Sexual Intercourse, and Corruption of Minors. On February 10, 2005, the Court sentenced Defendant a term of incarceration of 4 to 8 years for Involuntary Deviate Sexual Intercourse and a consecutive term of 3 years of supervision for Corruption of Minors. On June 9, 2005, Defendant filed a motion to modify sentence *nunc pro tunc*, which was denied on June 20, 2005.

Defendant's appeal period expired on March 10, 2005, thirty (30) days from the date of sentencing. No appeal was filed. The period during which the Defendant could have properly filed a PCRA petition expired one year later on March 30, 2006, but as noted above, his petition was not filed until September 6, 2007. As the Defendant's PCRA Petition is untimely, the Court does not have jurisdiction to reach the merits of the Petition.

ORDER

AND NOW, this _____ day of February 2008, it is hereby ORDERED and DIRECTED as follows:

1. Defendant is hereby notified pursuant to Pennsylvania Rule of Criminal Procedure No. 907(1), that it is the intention of the Court to dismiss his PCRA petition unless he files an objection to that dismissal within twenty (20) days of today's date.
2. The application for leave to withdraw appearance filed January 7, 2008 is hereby GRANTED and Gregory D. Drab, Esq. may withdraw his appearance in the above captioned matter.

By The Court,

Nancy L. Butts, Judge

xc: DA (KO)
Gregory D. Drab, Esq.
Shandy Thompson, GC 6693
SCI Somerset
1600 Walters Mill Rd.
Somerset, PA 15510
Hon. Nancy L. Butts
Trisha D. Hoover, Esq. (Law Clerk)
Gary L. Weber, Esq. (LLA)