

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	No. 715-1999; 955-1999
	:	1172-1999
	:	
v.	:	
	:	CRIMINAL DIVISION
JAMAL BENNETT,	:	APPEAL
Defendant	:	

OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a)
OF THE RULES OF APPELLATE PROCEDURE

The Defendant appeals the Order of the Honorable Nancy L. Butts, dated June 28, 2010, which dismissed the Defendant's Challenge to Existence of Jurisdiction/Writ of Habeas Corpus. On July 19, 2010, the Defendant filed a Notice of Appeal, and on August 11, 2010, this Court directed the Defendant, in accordance with Pa.R.A.P. No. 1925(b), to file within thirty days a Concise Statement of Matters Complained of on Appeal. This Court received the Defendant's Concise Statement of Matters Complained of on Appeal on September 9, 2010.

The Defendant raises two issues on appeal which are interrelated: (1) whether the court erred in its decision to deny all stated cases without having the proper jurisdiction; (2) whether the Commonwealth can claim to be an injured party to said cases.

Background

The Defendant's appeal joins three unrelated criminal cases which are not consolidated. For this reason, the Court will briefly discuss the history of each case individually. The Defendant filed numerous documents in each of these cases¹. The history discussed of each case relates only to the significant proceedings.

¹ In an Order dated December 1, 2005, the Honorable Kenneth D. Brown referred to the Defendant's serial filing of motions for several years. The Court believes this is an accurate description of the Defendant's behavior as it relates to all three cases under this appeal.

Under criminal docket number 715-1999, the Defendant was arrested by the Williamsport Police Department on April 22, 1999. The Defendant waived his right to a jury trial on January 13, 2000. On January 18, 2000, this Court found the Defendant guilty of Criminal Conspiracy, two counts Delivery of a Controlled Substance, two counts Possession With Intent to Deliver, two counts Possession of a Controlled Substance, and two counts Possession of Drug Paraphernalia. The Defendant was sentenced on these convictions on February 3, 2000. On February 24, 2000, the Defendant filed an appeal from the judgment of sentence. In an opinion dated August 16, 2001, the Superior Court affirmed the judgment of sentence entered against the Defendant. The Defendant's judgment of sentence then became final September 16, 2001. On November 2, 2006, the Defendant filed his first Post Conviction Relief Act (PCRA) petition in the case. On March 15, 2006, this Court dismissed the PCRA petition as untimely. The Defendant then appealed the dismissal of his PCRA petition. In an opinion dated June 26, 2007, the Superior Court affirmed the dismissal of the PCRA petition.

Under criminal docket number 1172-1999, the Defendant was arrested on July 16, 1999, by the Williamsport Police Department. On February 15, 2000, the Defendant waived his right to a jury trial. Also on February 15, 2000, Judge Brown found the Defendant guilty of Possession With Intent to Deliver cocaine and Possession of Drug Paraphernalia, and sentenced him on said charges. The Defendant then appealed the judgment of sentence entered against him. In an opinion dated August 2, 2001, the Superior Court affirmed the judgment of sentence against the Defendant. Therefore, the Defendant's judgment of sentence became final on September 4, 2001. On February 16, 2005, the Defendant filed his first PCRA petition under this case. On December 21, 2005, Judge Brown denied several motions that the Defendant filed with the Court, including a Motion for Habeas Corpus and a Motion to Quash Information. On December January 3, 2006, after giving the Defendant additional time to respond to the Court's

proposed dismissal of the PCRA petition, Judge Brown ultimately denied the PCRA petition. The Defendant filed several appeals under this docket number including an appeal from the December 21, 2005 Order of Judge Brown which denied several motions filed by the Defendant. On January 16, 2006, the Defendant also filed an appeal from the January 3, 2006 Order of Judge Brown denying his PCRA motion. While his first PCRA petition was still on appeal, the Defendant attempted to file a subsequent PCRA petition. As the appeal on the first PCRA petition was not yet resolved, Judge Brown dismissed the Defendant's second PCRA petition. On October 12, 2006, the Superior Court quashed the Defendant's appeal of the December 21, 2005 Order of Judge Brown. On May 14, 2007, the Superior Court ultimately dismissed the Defendant's appeal of Judge Brown's January 3, 2006 Order denying his PCRA Motion as the Defendant failed to file a brief.

Under criminal docket number 955-1999, the Defendant was arrested on April 9, 1999 by the Williamsport Police Department. On October 21, 1999, a jury found the Defendant guilty of Simple Assault, Reckless Endangerment of Another Person, Possession of a Controlled Substance (cocaine), and Possession With Intent to Deliver (cocaine). On December 20, 1999, the Defendant was sentenced under this case by Judge Brown. The Defendant filed an appeal from the sentencing order on January 14, 2000. By way of an opinion dated August 2, 2001, the Superior Court affirmed the judgment of sentence entered against the Defendant. The Defendant's judgment of sentence then became final on September 4, 2001. On August 14, 2002, the Defendant filed his first PCRA petition under this case. Judge Brown denied the Defendant's PCRA petition on November 22, 2002. The Defendant then filed an appeal from the Order denying his PCRA petition. By way of opinion dated June 9, 2004, the Superior Court affirmed the Order denying the Defendant's PCRA petition. The Defendant filed a second PCRA petition on June 17, 2004. On January 7, 2005, Judge Brown denied the Defendant's

second PCRA petition, and the various supplements filed thereto, as the PCRA petition was untimely. On January 27, 2005, the Defendant filed an appeal from the January 7, 2005 Order denying his second PCRA petition. By way of an opinion dated October 27, 2005, the Superior Court affirmed the Order dismissing the second PCRA petition. November 8, 2005, the Defendant filed a request with the Superior Court requesting reargument or reconsideration of the decision dated October 27, 2005, and a motion for permission to file a supplemental brief. The Superior Court denied both requests by way of an Order dated December 13, 2005. The Defendant filed a third PCRA petition on April 6, 2006. On April 18, 2006, Judge Brown entered an Order of intent to deny the defendant's PCRA petition as the petition was untimely filed. The Defendant was given twenty (20) days to response to the April 18, 2006 Order. The April 18, 2006 Order appears to be the last court filing related to the Defendant's third PCRA petition.

Discussion

On June 21, 2010, the Defendant filed a motion with the Court entitled "Challenge to Existence of Jurisdiction/Writ of Habeas Corpus." In this document, the Defendant requested that the Court vacate all three of the criminal cases described above, along with any fines/costs and parole time. 42 Pa.C.S. 6503 provides that "an application for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person restrained of his liberty within this Commonwealth under any pretense whatsoever." The record in this case is clear as to why the Defendant was detained. The Defendant was convicted on criminal charges under three separate criminal docket numbers. All three of the judgments of sentences against the Defendant were affirmed by the Superior Court. As there is no legitimate legal basis for the Defendant's petition for Challenge to Existence of Jurisdiction/Habeas Corpus, the Court dismissed the

petition. Likewise, the Defendant's claims that the court erred in its decision to deny all stated cases without having the proper jurisdiction, and that the Commonwealth cannot claim to be an injured party to said cases, lack any legitimate legal basis.

Conclusion

As the Defendant's argument is without merit, it is respectfully suggested that this Court's Order of June 28, 2010, which dismissed the Defendant's petition to "Challenge Existence to Jurisdiction/Habeas Corpus," be affirmed.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc: DA
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