

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-609-2009  
:   
vs. : CRIMINAL DIVISION  
:   
:   
KATINA ROBINSON, : Notice of Intent to Dismiss 2<sup>nd</sup>  
Defendant : PCRA without holding a hearing

**OPINION AND ORDER**

This matter came before the court on Katina Robinson's second Post Conviction Relief Act (PCRA) petition. The factual background and procedural history follows.

On March 6, 2009 at approximately 9:00 p.m., the Williamsport police were dispatched to the 1400 block of Memorial Avenue for a report of shots fired. As police officers approached the area, they observed a silver Oldsmobile in the 500 block of Cemetery Street, containing two occupants.<sup>1</sup> As the officers got out of their vehicle and began walking toward the Oldsmobile to inquire if the occupants heard any shots, the police observed furtive movements inside the vehicle. When the officers identified themselves as police, the individual in the driver's seat started the vehicle and peeled out without turning on the vehicle's lights. A high speed chase ensued through the city of Williamsport. During the chase, the driver stopped just long enough for the passenger to jump out.<sup>2</sup>

As the chase continued, the driver threw a bag of drugs out of the passenger window. When the bag struck the pavement, some of the packets of drugs were strewn across the roadway. The police returned to the area following the chase and discovered 71

---

<sup>1</sup> Cemetery Street intersects Memorial Avenue at the 1400 block.

orange Ziploc baggies of crack cocaine and 6 white glassine packets of heroin. The crack cocaine weighed 5.2 grams and the heroin weighed .12 grams.

The driver continued to flee, ignoring stop signs and red lights. At the intersection of Third and Mulberry Streets, the driver ran a red light and struck a station wagon, in which the Shaffer family was riding. The station wagon sustained significant damage. The Shaffer's minor daughter had to be extricated from the vehicle with the "jaws of life," but luckily only suffered minor injuries. Still, the driver did not stop.

Eventually, the driver lost control of the vehicle and took out a utility pole, a sign and part of the fence at the Genetti Hotel parking lot. The driver jumped out of the vehicle and fled on foot. Police caught the driver about a block away, but she flailed and fought the police who were trying to handcuff her. The driver was identified as Katina Robinson (hereinafter "Robinson").

The police discovered a cell phone beneath Robinson after they got her in handcuffs and up off the ground. The police searched Robinson incident to arrest and discovered \$90 in her left jacket pocket, \$260 in her left front jeans pocket, and \$406 in her right front jeans pocket. A second cell phone was discovered in the vehicle when the police executed a search warrant. A small bag of powder cocaine was found on Robinson's person when she was processed at City Hall.

The police charged Robinson with two counts of possession with intent to deliver a controlled substance, three counts of possession of a controlled substance, three counts of possession of drug paraphernalia, fleeing and eluding, recklessly endangering

---

<sup>2</sup> The passenger was detained and identified as Daniel Scott.

another person, accident resulting in injury, accident causing damage to an attended vehicle, accident involving injury when not properly licensed, and criminal mischief.

A jury trial was held on January 25-26, 2011. The jury found Robinson guilty of all the charges.

On June 2, 2011, the court sentenced Robinson to an aggregate term of incarceration of 5 years and 9 months to 11 years and 6 months.

Robinson filed a notice of appeal on June 29, 2011. On appeal, Robinson challenged the weight and sufficiency of the evidence for her convictions for possession with intent to deliver controlled substances and the sufficiency of the evidence for two of her convictions of possessing drug paraphernalia. The Pennsylvania Superior Court affirmed Robinson's judgment of sentence in a decision filed on June 30, 2012. Robinson subsequently filed a timely petition for allowance of appeal to the Pennsylvania Supreme Court, which was denied on November 28, 2012.

On December 12, 2012, Robinson filed her first pro se PCRA petition. The court appointed counsel to represent Robinson and gave counsel an opportunity to amend Robinson's pro se petition. Counsel filed an amended PCRA petition, which set forth a single issue: Was trial counsel ineffective by introducing inadmissible prejudicial information to the jury relating to Robinson's prior convictions for access device fraud in 1997 and retail theft in 1998? The court held an evidentiary hearing on May 3, 2013, and denied the petition on May 17, 2013.

Robinson appealed, but the Pennsylvania Superior Court affirmed the court's decision on May 15, 2014, and the Pennsylvania Supreme Court denied Robinson's petition

for allowance of appeal on September 24, 2014.

On January 21, 2015, Robinson filed a second PCRA petition, in which she included numerous boilerplate allegations of ineffective assistance of trial counsel, trial court error, prosecutorial misconduct, and error by PCRA counsel for omitting multiple issues.

After a review of the record in this case, the court concludes that Robinson's petition is patently untimely; therefore, the court lacks jurisdiction to address any of her issues on the merits.

Any PCRA petition, including a second or subsequent petition, must be filed within one year of the date the petitioner's judgment of sentence becomes final or allege facts to support one of the three limited statutory exceptions to the one year filing requirement. 42 Pa.C.S.A. §9545(b); *Commonwealth v. Williams*, 103 A.3d 1234, 1239 (Pa. 2014). "[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).

The time limits of the PCRA are jurisdictional in nature. *Commonwealth v. Howard*, 567 Pa. 481, 485, 788 A.2d 351, 353 (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 exceptions, 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 (2000).

The Pennsylvania Superior Court affirmed Robinson's judgment of sentence on June 30, 2012. Robinson filed a petition for allowance of appeal, which was denied by the Pennsylvania Supreme Court on November 28, 2012. Robinson had ninety (90) days within which to file a petition for certiorari to the United States Supreme Court. United States Supreme Court Rule 13; *Howard*, 788 A.2d at 353 n.4; *Commonwealth v. Reed*, 107 A.3d 137, 141 (Pa. Super. 2014). Therefore, Robinson's judgment of sentence became final on or about February 26, 2013.

Robinson's current PCRA petition, however, was not filed until January 21, 2015. Robinson has not alleged any facts to support any of the exceptions to the one-year filing period. Thus, Robinson's petition is patently untimely, and the court lacks jurisdiction to address the merits of her petition.

### **ORDER**

AND NOW, this \_\_\_ day of August 2015, upon review of the record and pursuant to Rule 907(1) of the Pennsylvania Rules of Criminal Procedure, the court concludes that Robinson's PCRA petition is untimely.

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. Robinson 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,

\_\_\_\_\_  
Marc F. Lovecchio, Judge

cc: Kenneth Osokow, Esquire (ADA)  
Katina Robinson, #OR-4618  
PO Box 180, Muncy PA 17756  
Gary Weber, Esquire (Lycoming Reporter)  
Work file