

held on August 30, 2018, this Court agrees with Attorney Jasper that Petitioner's PCRA Petition is untimely and that she also failed to raise any meritorious issues.

Whether the Petitioner's PCRA Petition is untimely pursuant to 42 Pa.C.S. § 9545(b)

Petitioner's PCRA Petition is untimely. 42 Pa.C.S. 9545(b) requires that a PCRA petition be filed within one (1) year of the date the judgment in a case becomes final, or else meet one of the timeliness exceptions under 42 Pa.C.S. § 9545(b)(1). The exceptions set forth in 42 Pa.C.S. § 9545(b)(1) are as follows:

(i) 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;

(ii) 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

(iii) 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.

A PCRA petition raising one of these exceptions "shall be filed within [sixty] days of the date the claim could have been presented." 42 Pa.C.S. § 9545(b)(2). A petitioner must "affirmatively plead and prove" the exception. *Commonwealth v. Taylor*, 933 A.2d 1035, 1039 (Pa. Super. 2007).

As such, when a PCRA is not filed within one year of the expiration of direct review, or not eligible for one of the exceptions, or entitled to one of the exceptions, but not filed within [sixty] 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.

Id. at 1039.

Petitioner was sentenced on March 20, 2012, and her judgment of sentence became final thirty (30) days later on April 29, 2012. 42 Pa.C.S. § 9545(b)(3). Petitioner filed her PCRA Petition on May 17, 2018, which is well beyond one (1) year of the date the judgment became final. Therefore, Petitioner must fall within one of the exceptions listed in 42 Pa.C.S. § 9545(b)(1) for her PCRA Petition to be deemed timely and for this Court to address the merits of the PCRA Petition.

Petitioner merely asks the length of sentence be lowered and the charged be dropped down to assault simply because “it’s a really long time.” Therefore Petitioner does not raise any meritorious claims that can be considered especially outside the window of timeliness. It should also be noted Petitioner received a one hundred and sixty-eight (168) month minimum, when the standard sentencing minimum was one hundred and ninety-two (192).

Conclusion

Based upon the foregoing, the Court finds no basis upon which to grant Petitioner’s PCRA petition. Additionally, the Court finds that no purpose would be served by conducting any further hearing. As such, no further hearing will be scheduled. Pursuant to Pennsylvania Rule of Criminal Procedure 907(1), the parties are hereby notified of this Court’s intention to deny Petitioner’s PCRA Petition. The Petitioner 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.

ORDER

AND NOW, this ____ day of September, 2018, it is hereby ORDERED and DIRECTED as follows:

1. Petitioner is hereby notified pursuant to Pennsylvania Rule of Criminal Procedure No. 907(1), that it is the intention of the Court to dismiss her PCRA petition unless she files an objection to that dismissal within twenty (20) days of today's date.
2. The application for leave to withdraw appearance filed August 28, 2018, is hereby GRANTED and Trisha Hoover Jasper, Esq. may withdraw her appearance in the above captioned matter.
3. **Petitioner Corinne Houston will be notified at the address below through means of certified mail.**

By the Court,

Nancy L. Butts, President Judge

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