

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :
 :
 vs. : **No. CR-1477-1994**
 :
 CHARLES SATTERFIELD, :
 Petitioner :

OPINION AND ORDER

This matter came before the Court on Charles Satterfield’s (Petitioner) Motion to Modify Sentence Pursuant to 557 U.S. _____ 2016 & 774 A.2d 1280 filed on August 21, 2017, which the court treated as a Post-Conviction Relief Act (PCRA) Petition. The relevant factual background has been previously laid out in an Opinion and Order of this Court notifying Petitioner of the Court’s intent to dismiss the Petition as untimely:

After a jury trial, Defendant was found guilty of two counts of Rape, both felonies of the first degree; one count of Aggravated Assault, a felony of the first degree; one count of Simple Assault, a misdemeanor of the second degree; one count of Terroristic threats, a misdemeanor of the first degree; one count of Unlawful Restraint, a misdemeanor of the first degree; one count of Possessing Instruments of Crime, a misdemeanor of the first degree; and two counts of Kidnapping, both felonies of the first degree. The offense date was September 10, 1994.

The Honorable Clinton W. Smith sentenced Defendant to a State Correctional Institution for a minimum of a ten (10) years and a maximum of thirty (30) years. Defendant filed a direct appeal and the Judgment of Sentence was affirmed by the Superior Court of Pennsylvania. At the time of Defendant’s sentence, Defendant had no registration requirements as no law had been enacted in the Commonwealth of Pennsylvania that would have required him to register. Pennsylvania’s Sex Offender Registration and Notification Act (SORNA) (2011, Dec. 20, P.L. 446, No. 111, § 12, effective in one year [Dec. 20, 2012]) has a retroactivity provision that applies to Defendant. SORNA requires individuals to register with the Pennsylvania State Police (PSP) and includes Defendant, who is serving a sentence in a state correctional institution for a sexually violent offense specified in section 9799.14 (relating to sexual offenses and tier system) after the effective date of SORNA. 42 Pa.C.S. § 9799.13(2) (applicability). Rape is a Tier III sexual offense. 42 Pa.C.S. § 9799.14 (sexual offenses and tier system).

Defendant filed his first Petition for Post-Conviction Relief on May 4, 1998. After an evidentiary hearing, the Petition was denied. Subsequent petitions were filed on November 2, 1999, March 16, 2004, May 4, 2011, and all were denied. The current petition was filed August 21, 2017.

Opinion and Order 10/31/17, at 1-2 (footnotes omitted).

Petitioner filed a Motion to Quash All Registration Requirements on November 15, 2017, which this Court treated as an objection to its notice of intent to dismiss. The Court in light of a recent decision at the time, *Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017), appointed Ryan Gardner, Esq. in accordance with Pa. R. Crim. P. 904, directing him to either file an Amended Petition or a *Turner/Finley* letter. *See* Order 12/8/17. On June 15, 2018, counsel filed a No-Merit Letter and a Motion to Withdraw based on *Commonwealth v. Murphy*, 180 A.3d 402, 405-06 (Pa. Super. 2018). This Court denied Attorney's withdrawal and ordered him to file an Amended Petition based on recent legislative amendments to Pennsylvania's sexual offender registration requirements in Act 10 of 2018 (February 21, 2018) and in Act 29 of 2018 (June 12, 2018). Attorney Gardner filed his Amended PCRA Petition September 17, 2018 and this Court held a conference on the matter on October 22, 2018. Parties agreed to submit stipulated facts and submit briefs on the issue presented. A set of stipulated facts was filed on January 3, 2019, Attorney Gardner filed his brief on January 24, 2019, and the Pennsylvania State Police (PSP) filed a brief on February 7, 2019.¹

Discussion

As a threshold matter the PSP contend that this Court does not have jurisdiction over the claim. "[A] post-conviction petition for a declaration that [a petitioner] is not subject to SORNA, filed in the Court of Common Pleas and against the Commonwealth is subsumed

¹ The District Attorney's office elected to not file a brief and instead relied upon the filing of the PSP.

under the PCRA.” *Commonwealth v. Greco*, -- A.3d --, 219 MDA 2018, at 8 (Pa. Super. Feb. 8, 2019).² For this Court to have jurisdiction a PCRA Petition must be timely filed. For a petition to be timely filed it must satisfy the following requirements:

(1) Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final, unless the petition alleges and the petitioner proves that:

- (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.

42 Pa. C.S. § 9545(b)(1) (emphasis added).

The Pennsylvania Superior Court has established that *Muniz* may not create a new retroactive rights exception. *Greco*, 219 MDA at 7; *see also Murphy*, 180 A.3d at 406 (When a petitioner’s petition is untimely he/she must demonstrate *Muniz* applies retroactively, “[b]ecause at this time, no such holding has been issued by our Supreme Court, [a petitioner] cannot rely on *Muniz* to meet that timeliness exception”).

Petitioner was sentenced on July 28, 1995 and appealed his sentence to the Pennsylvania Superior Court. That sentence was subsequently affirmed on August 13, 1996. His sentence then became final on September 13, 1996, giving Petitioner until September 13, 1997 to timely file a PCRA petition. Petitioner’s PCRA Petition is untimely by over twenty years and he presents no recognizable exception under 42 Pa. C.S. § 9545(b)(1). Additionally,

² Petitioner may seek relief through alternative means in the Commonwealth Court of Pennsylvania. *See Gregory v. Pennsylvania State Police*, 185 A.3d 1202 (Pa. Cmwlth 2018).

the factual situation presented here is completely indistinguishable from that of the recent Pennsylvania Superior Court decision in *Greco*, where it was determined that the Court of Common Pleas could not address the underlying merits of the petitioners claim because of the jurisdictional threshold. *Greco*, 219 MDA at 7.

ORDER

AND NOW, this 13th day of March, 2019, it hereby ORDERED and DIRECTED as follows:

1. Pursuant to Pennsylvania Rule of Criminal Procedure 907(1), the parties are hereby notified of this Court's intention to deny Petitioner's Amended PCRA Petition. 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.
2. This Order is limited to the timeliness of this PCRA petition and is without prejudice to other types of actions or proceeding for relief from SORNA registration requirements, if any.

By The Court,

Nancy L. Butts, President Judge

cc: DA
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NLB/kp