

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CP-41-CR-0000352-2019
	:
vs.	: CRIMINAL DIVISION
	:
	:
JOSEPH SENTORE COLEMAN,	: Notice of Intent to Dismiss PCRA
Defendant	: Without Holding An Evidentiary Hearing

**OPINION AND ORDER**

This matter is before the court on the (second) Post Conviction Relief Act (PCRA) petition filed on September 15, 2025 by Joseph Sentore Coleman (“Coleman”).

By way of background, the Commonwealth charged Coleman with an open count of homicide, burglary, robbery, conspiracy to commit homicide and robbery, and firearms offenses as a result of a shooting incident that occurred inside an apartment at 505 Park Avenue on August 30, 2016.

On February 13, 2020, a jury found Coleman guilty of first-degree murder, second-degree murder, and the related offenses. Coleman was sentenced to life in prison without the possibility of parole. Coleman filed a post sentence motion, which was denied.

Coleman appealed. On appeal, Coleman asserted issues related to the weight and sufficiency of the evidence, the court’s failure to give the jury an instruction regarding the Commonwealth’s failure to call a potential witness, and the trial court’s preclusion of testimony from Leon Hall. The Pennsylvania Superior Court affirmed Coleman’s judgment of sentence. *See Commonwealth v. Coleman*, 253 A.3d 311 (Table), 2021 WL 1595641 (Pa. Super. Apr. 23, 2021). Coleman sought allowance of appeal to the Pennsylvania Supreme Court, which denied the petition on March 1, 2022. *See* 273 A.3d 988 (Table)(Pa. 2022).

Coleman filed his first PCRA petition on July 14, 2022. Coleman asserted claims that the Commonwealth misrepresented the benefits given to its witnesses during closing arguments; counsel was ineffective for failing to call witnesses, the court erred in failing to remove a juror; there was a reference during trial to an individual whose last name was “Wright and was a victim in his other case (90-2017); and counsel was ineffective for failing to obtain a DNA expert. Brian Ulmer, Esquire was appointed to represent Coleman.

Ulmer filed an amended PCRA petition on Coleman’s behalf. On November 30, 2022, the court issued an order that noted various pleading deficiencies and the lack of witness certifications. The court gave Ulmer an additional opportunity to amend to correct these deficiencies. Ulmer filed a second amended PCRA petition on January 3, 2023 and a supplemental amended PCRA petition on February 17, 2023. The issues asserted in these petitions related solely to the failure to obtain a separate DNA expert and included a witness certification for trial counsel but no witness certifications for any DNA expert. The court denied Coleman’s PCRA petition in an Opinion and Order entered on December 8, 2023.

Coleman filed an appeal. During his appeal, Coleman became dissatisfied with Ulmer’s representation of him and he sought his withdraw as counsel and the appointment of new counsel. The Superior Court vacated the briefing schedule and remanded to the lower court to address this issue. The lower court appointed new counsel, Krista Deats, to represent Coleman for his PCRA appeal. The appeal was discontinued on January 5, 2025.

On September 15, 2025, Coleman filed his second PCRA petition. In this petition, Coleman asserted claims that Ulmer was ineffective for not raising the ineffectiveness of trial and direct appeal counsel; Ulmer was ineffective for not raising any issues but one; and direct appeal counsel said he was convicted of third-degree murder when he was not showing

that she was ineffective and not prepared during court proceedings. He indicates that if an appeal is granted in his case, he intends to assert *Brady* violations, ineffective assistance of counsel claims, the improper exclusion of witness Leon Hall, his actual innocence, and a claim that the statute defining the offense of murder is unconstitutionally broad. He seeks a new trial and discovery of transcripts related to involved individuals who testified against him (specifically, Jamal Brown, Ariel Harlan, and Calvin Rooks) but he does not state any exceptional circumstances.

## **DISCUSSION**

The court intends to deny Coleman's petition as untimely.

The PCRA contains time limits for filing petitions. The Act states:

### **(b) Time for filing petition.--**

(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.A. §9545(b)(1). A judgment becomes final at the conclusion of **direct** review or the time for seeking such review. *See* 42 Pa. C.S.A. §9545(b)(3) (emphasis added).

The Pennsylvania Superior Court affirmed Coleman's judgment of sentence on April 23, 2021. Coleman sought allowance of appeal, which was denied on

March 1, 2022. Coleman had 90 days within which to seek certiorari from the United States Supreme Court. Therefore, his judgment of sentence became final on or about May 30, 2022.

The time limits of the PCRA are jurisdictional in nature and no court may entertain an untimely petition. *Commonwealth v. Laird*, 331 A.3d 579, 594 (Pa. 2025); *see also Commonwealth v. Taylor*, 283 A.3d 178, 185 (Pa. 2023). The time limits are not subject to equitable tolling; instead, the time for filing a PCRA petition can be extended only by operation of one of the statutorily enumerated exceptions to the PCRA time-bar. *See Commonwealth v. Robinson*, 635 Pa. 592, 139 A.3d 178, 185 (2016).

To be considered timely, Coleman had to file his current PCRA petition on or before May 30, 2023 or allege facts to support one of the statutory exceptions. Coleman did not file his petition until September 15, 2025, more than two years late. He also did not allege any facts to support any of the statutory exceptions. Therefore, the court lacks jurisdiction to hold an evidentiary hearing or to grant any relief to Coleman.

Even if Coleman's petitioner were timely, he would not be entitled to relief because his claims are previously litigated or waived. *See* 42 Pa. C.S.A. §9543(a)(3). A claim is previously litigated if an issue has been previously litigated if "the highest appellate court in which the petitioner could have had review as a matter of right has ruled on the merits of the issue;" or "it has been raised and decided in a proceeding collaterally attacking the conviction or sentence." 42 Pa.C.S.A. §9545(a). A claim is waived if "the petitioner could have raised it but

failed to do so before trial, at trial, ... on appeal or in a prior state postconviction proceeding.” 42 Pa. C.S.A. §9545(b).

Coleman’s claims that trial and appellate counsel (Jeana Longo) was ineffective could have been raised in his first PCRA petition. Some claims were raised but they were rejected. The claim about her stating that he was convicted of third-degree murder was not raised, but it could have been; therefore, it is waived.

His statements about intending to assert issues about the improper exclusion on witness Leon Hall was litigated and rejected in his direct appeal.

Any claim related to the alleged unconstitutionally overbroad statute defining the offense of murder could have been asserted prior to trial; therefore, it is waived.

Coleman’s claims regarding Ulmer’s alleged ineffectiveness could have asserted on appeal after new counsel was appointed. *See Commonwealth v. Bradley*, 669 Pa. 107, 261 A.3d 381, 401 (2021)(“we hold that a PCRA petitioner may, after a PCRA court denies relief, and after obtaining new counsel or acting pro se, raise claims of PCRA counsel's ineffectiveness at the first opportunity to do so, even if on appeal.”). Although *Bradley* permits claims of PCRA counsel’s ineffectiveness to be asserted on appeal, *Bradley* does not create an exception to the time limits of the PCRA to assert claims of PCRA counsel’s ineffectiveness. *See Laird, supra*.

Even if these claims were not untimely or waived, they lack merit. The court noted in its denial of his first PCRA petition that even if the claims were asserted as ineffective assistance of counsel claims, Coleman would not be entitled

to relief. Furthermore, Ulmer could not raise other issues on appeal because the issue about the DNA expert was the only one contained in the second amended and supplemental petitions filed after the court issued the order noting the deficiencies in and problems with the other claims.

For the foregoing reasons, the court intends to deny Coleman's second PCRA petition without holding an evidentiary hearing.

### **ORDER**

AND NOW, this 24<sup>th</sup> day of September 2025, the court notifies the parties of its intention to deny Coleman's second PCRA petition. Coleman may respond to this proposed dismissal within twenty (20) days. Any response should allege facts (and the dates those facts were discovered) to assert one of the statutory exceptions to the time limits; if it does not, the court will still lack jurisdiction to hold an evidentiary hearing or grant relief. If no response is received within that time period, the Court will enter an order denying the petition.

The court also denies Coleman's request for the appointment of counsel or the reappointment of Ms. Deats as counsel. Since the court lacks jurisdiction to hold an evidentiary hearing or grant relief due to the untimeliness of the petition, there is no need for the appointment of counsel and such appointment is not required in the interests of justice. *See* Pa. R. Crim. P. 904(D), (E).

By The Court,

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Nancy L Butts, President Judge

cc: Martin Wade, Esquire (ADA)  
Joseph Sentore Coleman, #QB5985

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