

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CP-41-CR-0001190-2015
vs.	: CRIMINAL DIVISION
	:
	:
JAMES NOTTINGHAM,	: Notice of Intent to Dismiss PCRA Petition
Defendant	:

OPINION AND ORDER

Before the court is the Motion to Dismiss Information filed by James Nottingham (hereinafter Nottingham) on or about December 3, 2025, which the court must treat as a petition under the Post Conviction Relief Act. *See* 42 Pa. C.S.A. §9542 (The PCRA is “the sole means of obtaining collateral relief and encompasses all other common law and statutory remedies for the same purpose that exist when this subchapter takes effect, including habeas corpus and coram nobis.”); *Commonwealth v. Fantauzzi*, 275 A.3d 986, 995 (Pa. Super. 2022)(“regardless of how a petition is titled, courts are to treat a petition filed after a judgment of sentence becomes final as a PCRA petition if it requests relief contemplated by the PCRA.’) The relevant facts follow.

Nottingham was charged with aggravated assault -attempt or cause serious bodily injury, aggravated assault -attempting or causing bodily injury with a deadly weapon, unlawful restraint, endangering the welfare of children (EWOC), terroristic threats, possession of instrument of crime, simple assault, recklessly endangering another person (REAP), summary harassment, and person not to possess a firearm. The person to possess firearm charge was severed for trial from the remaining charges. On November 1, 2016, a jury found Nottingham guilty of person not to possess and firearm. On January 10, 2017, the court sentenced Nottingham to five to ten years’ incarceration in a state correctional

institution.

On or about June 29, 2017, the Commonwealth withdrew the aggravated assault charges and a jury found Nottingham guilty of unlawful restraint, EWOC, terroristic threats, possession of instrument of crime, simple assault and REAP. The court found him guilty of summary harassment. On July 11, 2017, the court sentenced Nottingham to an aggregate sentence of three to six years' incarceration to be served consecutive to his five to ten-year sentence for person not to possess a firearm.¹ Nottingham filed a post sentence motion, including a request to modify his sentence. The court denied his post sentence motion, and Nottingham filed a timely appeal. The Pennsylvania Superior Court affirmed Nottingham's judgment of sentence in a memorandum decision issued on June 11, 2018, and granted counsel's motion to withdraw. Nottingham did not file a petition for allowance of appeal with the Pennsylvania Supreme Court.

On or about April 7, 2022, Nottingham filed a Post Conviction Relief Act (PCRA) petition. As this was Petitioner's first PCRA petition, the court appointed counsel and directed PCRA counsel to file either an amended PCRA petition or a *Turner/Finley* no-merit letter. PCRA counsel had difficulty communicating with Nottingham. He tried to arrange telephone calls with Nottingham but was not successful. PCRA counsel's relationship with Nottingham deteriorated and, on or about January 26, 2023, the court appointed new counsel to represent Nottingham. New counsel filed an amended PCRA petition on Nottingham's

¹ The aggregate sentence consisted of the following sentences on each offense: one to two years for unlawful restraint, a consecutive one to two years for simple assault and a consecutive one to two years for REAP. The court imposed concurrent sentences of nine months to eighteen months for EWOC, terroristic threats, and possessing an instrument of crime.

behalf on March 29, 2023.² The court dismissed that petition as untimely.

On or about December 3, 2025, Nottingham filed his current pro se petition. The court finds that it lacks jurisdiction to hold an evidentiary hearing or to grant any relief to Nottingham because his petition is patently untimely.

For a PCRA Petition to be considered timely 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). A petitioner must “affirmatively plead and prove” the exception, upon which he or she relies. *Commonwealth v. Taylor*, 933 A.2d 1035, 1039 (Pa. Super. 2007).

A judgment becomes final at the conclusion of direct review or at the expiration of time for seeking the review. 42 Pa. C.S.A. § 9545(b)(3). The court sentenced Nottingham on January 10, 2017 and July 11, 2017. Nottingham filed post sentence motions, which the court denied. Nottingham filed an appeal, which the Superior Court decided on June 11,

² Since that time, Nottingham has attempted to file additional PCRA petitions without obtaining leave of court to do so and without obtaining the signature of his attorney on his filings.

2018. Nottingham had thirty (30) days within which to file a petition for allowance of appeal with the Pennsylvania Supreme Court but he did not file such a petition. Therefore, Nottingham's judgment of sentence became final on July 11, 2018. To be considered timely, Nottingham had to file his petition by July 11, 2019 or allege facts to support one of the three statutory exceptions. Nottingham did not file his current petition until December 4, 2025. Therefore, his petition is facially untimely. Nottingham also did not assert any of the statutory exceptions to the one-year filing requirement in his motion. Instead, Nottingham asserts the same or similar claims and rambling, incomprehensible arguments as his prior petitions and motions.

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). When 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 one year 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. 42 Pa. C.S.A. §9545(b); see also *Commonwealth v Gamboa-Taylor*, 562 Pa. 70, 77, 753 A.2d 780, 783 (2000). Nottingham's motion was filed more than one year after his judgment of sentence became final and he has not pleaded any of the statutory exceptions. Therefore, the court lacks jurisdiction to hold a hearing on his motion or to grant him any relief.

Nottingham alleges that on the charges were dismissed by MDJ Jon E. Kemp. He claims that his rearrest and arraignment by MDJ James H. Sortman was wholly frivolous. He asserts that "[t]his case was indefinitely suspended for a lack of probable cause which was

affirmed by the Commonwealth Court in *James Nottingham v. Office of Attorney General*, 975 CD 2023 (Sept. 19, 2024) and that under the doctrine of law res judicata or collateral estoppel the court were prohibited by any further proceedings were moot and any amendment futile.” He asserts that indefinitely suspended sentences are condemned by the Pennsylvania Supreme Court pursuant to *Commonwealth v. Duff*, 414 Pa. 471, 200 A.2d 773 (1964) and that relief and release is available under Pa. R. Crim. P. 150. He seeks dismissal of the Information for “acts of fraud in an obstruction of justice.”

Even if Nottingham’s motion were timely, his claims would be waived under the PCRA. An issue is waived if petitioner could have raised it but failed to do so before trial, during trial, on appeal or in a prior postconviction proceeding. 42 Pa. C.S.A. §9544(b). Nottingham would have known about these alleged facts in 2015 and could have raised any issues regarding his arrest and the court’s jurisdiction in pretrial motions. If his counsel failed or refused to file such motions, he could have raised a claim of ineffective assistance of counsel in a PCRA petition filed on or before July 11, 2019. Therefore, his claims could have been raised before trial, on appeal or in his prior PCRA petition(s).

Even if Nottingham’s motion were timely and his claims were not waived, his claims lack merit. Rule 150 does not deal with defects or arrest warrants; it deals with bench warrants, which are typically issued when a defendant fails to appear for a court hearing despite having notice of the hearing. Rule 109 is the rule pertaining to defects and it requires the defendant to raise the defect before the conclusion of the preliminary hearing and that the defect be prejudicial to the rights of the defendant. Nottingham did not timely raise any alleged defect in a timely manner and it is too late to do so now.

Nottingham’s assertions also are not supported by the record. According to the

documents attached to the lower court (MDJ) docket transcript, the incident in question occurred at approximately 1:57 a.m. on July 13, 2015. Officer Brown made the sworn affidavit of probable cause supporting the criminal complaint before MDJ Sortman on July 13, 2015. During normal business hours, Nottingham had a preliminary arraignment before MDJ Kemp and bail was set at \$150,000. Nottingham was unable to post bail and was committed to the Lycoming County Prison. Nottingham's preliminary hearing was scheduled for July 17, 2015 before MDJ Kemp. Nottingham and his private attorney, Michael Morrone, waived the preliminary hearing and the charges were waived to the Court of Common Pleas.

In *Nottingham v. Office of Attorney General*, the Commonwealth Court affirmed the Attorney General Office's denial of Nottingham's Right-To-Know Law (RTKL) request, which is a civil matter. It did not make any findings of a lack of probable cause in this criminal case. Instead, the Commonwealth Court held that Nottingham could not use the RTKL to collaterally attack the sentencing court's judgment of sentence. 2024 WL 4234982, at *4 (Pa. Cmlth. Sept. 19, 2024)(nonprecedential). Accordingly, the Commonwealth Court dismissed Nottingham's "Appellant Motion for Relief", "Correction or Modification of Record" and "Rule to Show Cause." It is clear that Nottingham has misrepresented and/or misunderstood the Commonwealth Court's decision. It did not, in any manner, rule in his favor.

In his "Notice to Plead", Nottingham claims that he has a right to challenge his criminal history record information and its accuracy and completeness. He also demands a "Ross" hearing and attempts to assert a double jeopardy claim or a claim pursuant to 18 Pa. C.S. §110, a suppression motion pursuant to Rule 581, as well as his fingerprint card and booking photo in another case, CP-41-CR-0001225-1989. Nottingham cannot raise these issues through a "Notice to Plead." These issues assert claims that could or would have been cognizable under the PCRA

if he had filed a timely motion or petition. The court must treat the “Notice to Plead” as a PCRA petition and would deny it as untimely, waived and lacking merit for the same reasons as it intends to dismiss his “Motion to Dismiss Information.”

Just as Nottingham cannot collaterally challenge his sentence through RTKL appeal, he cannot collaterally challenge his through a notice to plead or a challenge to his criminal history record information. **THE ONLY WAY NOTTINGHAM CAN COLLATERALLY CHALLENGE HIS CONVICTION AND SENTENCE FOR THESE TYPES OF CLAIMS IS THROUGH THE PCRA AND IT IS NOW TOO LATE TO DO SO.**

If anyone is committing fraud and obstructing justice, it is Nottingham and not this court, his prior attorneys, or the appellate courts. Nottingham has misrepresented the facts of this case and the Commonwealth Court’s decision in his RTKL appeal involving the Office of Attorney General.

ORDER

AND NOW, this 5th day of December 2025, upon review of the record and pursuant to Rule 907(1) of the Pennsylvania Rules of Criminal Procedure, the court finds that it lacks jurisdiction to hold an evidentiary hearing in this matter because Nottingham’s motion or petition is untimely. Therefore, the court cannot hold an evidentiary hearing or grant Nottingham any relief. The court hereby notifies the parties of its intention to dismiss the Petition and the Notice to Plead. Nottingham 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 both the petition and the notice to plead. Unless or until the court directs the Commonwealth to do so, the Commonwealth is under no obligation to file any response to

Nottingham's motion or notice to plead.

By The Court,

Nancy L. Butts, President Judge

cc: District Attorney
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NLB/laf