

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
v.	:	
KAHEEM FAISON	:	
Appellant	:	No. 3030 EDA 2019

Appeal from the PCRA Order Entered September 17, 2019
in the Court of Common Pleas of Delaware County
Criminal Division at No(s): CP-23-CR-0002522-2018

BEFORE: BOWES, J., McCAFFERY, J., and FORD ELLIOTT, P.J.E.

DISSENTING STATEMENT BY BOWES, J.: **FILED SEPTEMBER 23, 2020**

The certificate of service on Appellant’s *pro se* notice of appeal indicates that it was served through the prison mailing system on October 17, 2019, which was a Thursday. It was docketed by the clerk of courts on Tuesday, October 22, 2019. The PCRA court expressly indicted that the appeal was timely,¹ and the Commonwealth has not asserted otherwise. Accordingly, I would deem the appeal to be timely filed. ***See Commonwealth v. Cooper***, 710 A.2d 76, 79 (Pa.Super. 1998) (“Where . . . the opposing party does not challenge the timeliness of the appeal and the prisoner’s assertion of timeliness is plausible, we may find the appeal timely without remand [for an evidentiary hearing as to when the notice was deposited with prison authorities].”).

¹ **See** PCRA Court Opinion, 10/28/19, at 5.

Rather than quash the appeal, I would address the substance of Appellant's issues, and would affirm the dismissal of his PCRA petition for the reasons stated in the PCRA court's opinion. **See** PCRA Court Opinion, 10/28/19, at 6-7 (explaining that it is apparent from the record that Appellant's claims of ineffective assistance of plea counsel are meritless). Therefore, I respectfully dissent.