

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
ANTHONY BROOKINS,	:	
	:	
Appellant	:	No. 130 WDA 2014

Appeal from the PCRA Order entered on November 27, 2013  
in the Court of Common Pleas of Allegheny County,  
Criminal Division, No. CP-02-CR-0002571-2001;  
CP-02-CR-0008302-2002

BEFORE: PANELLA, JENKINS and MUSMANNO, J.

MEMORANDUM BY MUSMANNO, J.:

**FILED JULY 28, 2014**

Anthony Brookins (“Brookins”) appeals, *pro se*, from the Order denying his third Petition for relief pursuant to the Post Conviction Relief Act (“PCRA”). **See** 42 Pa.C.S.A. §§ 9541-9546. We affirm.

On June 19, 2001, Brookins pled guilty to six counts of possession with intent to deliver a controlled substance, three counts of possession of a controlled substance, and one count of criminal conspiracy. 35 P.S. § 780-113(a)(16), (30); 18 Pa.C.S.A. § 903(a)(1). Brookins absconded from his electronic monitoring and did not appear for sentencing, however, Brookins was subsequently arrested. In a separate, unrelated case, Brookins pled guilty to twelve additional counts of possession with intent to deliver a controlled substance and six additional counts each of possession of a controlled substance and criminal conspiracy. For sentencing purposes, the

two cases were consolidated, and, on July 14, 2003, Brookins was sentenced to an aggregate term of two to four years in prison and ten years of probation. Brookins did not appeal his judgment of sentence.

On August 26, 2010, Brookins filed his first PCRA Petition. The PCRA court dismissed his Petition as untimely. On February 23, 2012, Brookins filed his second PCRA Petition. The PCRA court again dismissed his Petition as untimely. Brookins appealed the dismissal of his second PCRA Petition, but his appeal was dismissed for failure to file a brief. On June 11, 2013, Brookins filed his third PCRA Petition. The PCRA court again dismissed the Petition as untimely. This appeal followed.

We review an order dismissing a petition under the PCRA in the light most favorable to the prevailing party at the PCRA level. This review is limited to the findings of the PCRA court and the evidence of record. We will not disturb a PCRA court's ruling if it is supported by evidence of record and is free of legal error.

***Commonwealth v. Ford***, 44 A.3d 1190, 1194 (Pa. Super. 2012) (citations omitted).

Under the PCRA, any PCRA petition "shall be filed within one year of the date the judgment becomes final[.]" 42 Pa.C.S.A. § 9545(b)(1). When no timely direct appeal is filed, the one-year period allowed for the filing of a post-conviction petition commences upon the actual expiration of the time period allowed for seeking direct review. ***See Commonwealth v. Brown***, 943 A.2d 264, 268 (Pa. 2008). The PCRA's timeliness requirements are jurisdictional in nature and a court may not address the merits of the issues

raised if the PCRA petition was not timely filed. **Commonwealth v. Albrecht**, 994 A.2d 1091, 1093 (Pa. 2010).

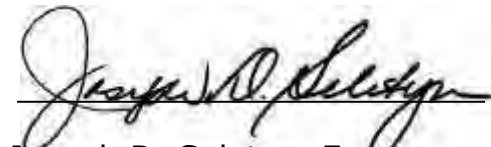
Here, Brookins's judgment of sentence became final on August 13, 2003, when the thirty-day time period in which to file a direct appeal expired. Thus, Brookins's third PCRA Petition, filed on June 11, 2013, is facially untimely under the PCRA.

However, this Court may consider an untimely PCRA petition if the petitioner can explicitly plead and prove one of three exceptions set forth under 42 Pa.C.S.A. § 9545(b)(1)(i)-(iii). Any PCRA petition invoking one of these exceptions "shall be filed within 60 days of the date the claim could have been presented." **Id.** § 9545(b)(2); **Albrecht**, 994 A.2d at 1094.

Here, Brookins did not prove any of the exceptions listed in 42 Pa.C.S.A. § 9545(b)(1).<sup>1</sup> Thus, the PCRA court properly denied Brookins's Petition as untimely.

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.  
Prothonotary

Date: 7/28/2014

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<sup>1</sup> Brookins raises various ineffective assistance of counsel claims in his Petition. However, such claims do not implicate any of the three exceptions to the PCRA's timeliness requirements. **Albrecht**, 994 A.2d at 1094.