NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
DONTE M. HILL	:	
Appellant	:	No. 2024 EDA 2025

Appeal from the PCRA Order Entered July 1, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0002983-2009

BEFORE: OLSON, J., DUBOW, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY FORD ELLIOTT, P.J.E.: **FILED NOVEMBER 25, 2026**

Appellant, Donte M. Hill, appeals from the order of the Court of Common Pleas of Philadelphia County, that dismissed, without a hearing, his third petition filed pursuant to the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541-9546 ("PCRA"). We agree with the PCRA court that the Commonwealth's prior nondisclosure of police intelligence documents that form the basis of Appellant's claim does not amount to a ***Brady***[1] violation. Accordingly, we affirm.

On direct review, we relied on the trial court's recitation of the facts, which are as follows:

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* Retired Senior Judge assigned to the Superior Court.

[1] ***Brady v. Maryland***, 373 U.S. 83, 84 (1963).

At trial, the Commonwealth presented the testimony of Hakeem Johnson, Monica Caravajal, Cornell Drummond, Dr. Gary Collins, Crime Scene Investigator Karen Auerweck, Philadelphia Police Officers Jason Wentzell, Alexander DeJesus, Edward Nelson, Francesco Campbell[,] and Travis Wolfe, and Philadelphia Detectives Grady Patterson and Joseph Bamberski. Viewed in the light most favorable to the Commonwealth as the verdict winner, their testimony established the following.

On July 20, 2008, Monica Caravajal was awakened in her home [in] the 4200 block of Parkside Avenue at approximately 1:50 a.m. by the sound of several gunshots. Ms. Caravajal rose from her bed and looked out the window, to the rear lot in back of her house. She then saw someone get into the driver's side of what appeared to her to be a red Jeep and watched as the person backed the Jeep out of the lot.

At 2 a.m., Philadelphia Police Officers Jason Wentzell and Alexander DeJesus were on duty patrolling when they received a radio call that there were shots fired [in] the 4200 block of Parkside Avenue. Officers Wentzell and DeJesus arrived at 4280 Parkside Avenue, which was the empty lot behind Ms. Caravajal's apartment. The officers heard a voice cry out, "[h]elp, I'm shot." Officers Wentzell and DeJesus made their way to the rear of the lot, where they found the victim, Raheem Ellis, lying halfway inside of a parked car. Mr. Ellis, who had been shot eleven times and was bleeding profusely, told the officers he was dying and asked to be taken to a hospital. At this point, other police officers, including Officer Travis Wolfe, began to arrive. Paramedics had not yet arrived, so the officers loaded Mr. Ellis into a patrol car to take him to the hospital. As he was being transported, Mr. Ellis repeatedly stated to officers that he was dying. Officer Wolfe asked him who shot him, to which he replied[,] "Tae[3] from the Avenue shot me." Officer Wolfe asked him how "Tae" had left the scene, and Mr. Ellis said that he had left in a red truck. Mr. Ellis died shortly after the officers transported him to Hahnemann Hospital.

> [3] Throughout the notes of testimony, defendant was frequently referred to as either "Tae" or "Tay." It was stipulated that this was defendant's nickname, short for "Dante."

> Hakeem Johnson was Mr. Ellis's cousin. On two or three occasions when Mr. Johnson was visiting Mr. Ellis in his neighborhood, Mr. Ellis pointed out [Appellant] to him. On one of those occasions, [Appellant] was driving a red truck.
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> Cornell Drummond grew up with [Appellant] and knew him for nearly all of his life. Within a month of the murder of Mr. Ellis, [Appellant] told Mr. Drummond that [Appellant] was paid $15,000 to kill Mr. Ellis, and that he had "emptied the whole clip" into him. During that conversation, [Appellant] lifted up his shirt and showed Mr. Drummond a gun.

Commonwealth v. Hill, 2013 WL 11255521, *1, *3-4 (Pa. Super., filed Aug. 9, 2013) (non-precedential decision) (2992 EDA 2011) (record citations omitted), ***appeal denied***, 84 A.3d 1062 (Pa. 2014) (table) (427 WAL 2013).

On June 23, 2011, a jury convicted Appellant of murder of the first degree and possessing an instrument of crime ("PIC").[2] That same day, the sentencing court sentenced Appellant to a mandatory sentence of life imprisonment on the murder charge, and a concurrent sentence of one to five years' imprisonment on the PIC charge.

On direct review, Appellant challenged the sufficiency and weight of the evidence, the trial court's rulings allowing into evidence both police testimony regarding the meaning of "LA" tattooed on Appellant's face (alleged to be a reference to the area of 56th and Lansdowne Avenue where Appellant lived) and the victim's dying declaration, and the trial court's jury instruction concerning testimony provided by Drummond. ***See Hill***, 2013 WL 11255521 at *1. On August 9, 2013, we affirmed the judgment of sentence. ***See***

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[2] 18 Pa.C.S. §§ 2502(a) and 907(a), respectively.

Commonwealth v. Hill, 83 A.3d 1062 (Pa. Super. 2013) (table) (2992 EDA 2011). On January 24, 2014, our Supreme Court denied Appellant's petition for allowance of appeal. ***See Commonwealth v. Hill***, 84 A.3d 1062 (Pa. 2014) (table) (427 EAL 2013).

On June 17, 2014, Appellant timely filed, *pro se*, his first PCRA petition, alleging ineffective assistance of counsel, constitutional violations, and the existence of newly-available exculpatory evidence. ***See*** Appellant's First PCRA Petition, 6/17/24, 2. The PCRA court appointed Appellant counsel, who filed an amended petition on November 3, 2015, arguing that trial counsel was ineffective for failing to object to the definition of malice the trial court provided the jury. ***See*** Appellant's Amended First PCRA Petition, 11/3/15, 5-12 (unpaginated). The amended petition was later withdrawn on January 29, 2016, and counsel filed a ***Finley***[3] letter on June 10, 2016. The PCRA court dismissed the petition on July 28, 2016. Appellant timely filed a *pro se* notice of appeal on August 29, 2016, which initiated an appeal that we dismissed on April 11, 2017, after Appellant failed to file a brief.

On June 17, 2018, Appellant, having retained new counsel, filed a second PCRA petition, alleging newly-discovered information that called into question the veracity of Drummond's testimony. ***See*** Appellant's Second PCRA Petition, 6/17/18, 6-23. The PCRA court dismissed that petition on December 19, 2019, and Appellant did not appeal the dismissal.

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[3] ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988) (*en banc*).

On July 5, 2024, again having retained new counsel, Appellant filed his third PCRA petition, which is the focus of this appeal. Therein, Appellant alleged that he satisfied the newly-discovered facts and governmental interference exceptions to the PCRA's jurisdictional time-bar because, on July 5, 2023, his counsel received the Philadelphia Police Department's homicide file which contained, *inter alia*, evidence that two other people named Donte lived on Lansdowne Avenue, and he alleged that this information had been withheld from him in violation of ***Brady*** and ***Napue***.[4] ***See*** Appellant's Third PCRA Petition, 7/5/24, 7-9.[5] Appellant attached to his petition two police intelligence documents from 2003 and 2005, respectively. ***See id.*** at Exhibit D, 1-2 (unpaginated). The 2003 document, which notes a victim unrelated to the present case, lists one suspect: a "Dana," nicknamed "Tay," whose address was outside the Lansdowne area. ***Id.*** at Exhibit D, 2. The document from 2005 is an "intell[igence] only" list of four suspected members of the "Lansdowne Group" associated with a separate victim in an unrelated case. ***Id.*** at Exhibit D, 1. One of the suspects from the 2005 document is a "Dante"

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[4] ***Napue v. Illinois***, 360 U.S. 264 (1959).

[5] On April 11, 2025, Appellant filed a reply to the Commonwealth's January 15, 2025, response to his third PCRA petition. In this reply, Appellant withdrew all claims except those outlined ***supra***. ***See*** Appellant's Response to Commonwealth, 4/11/25, 1. In the instant appeal, Appellant only moves forward on the newly discovered facts exception to the PCRA's jurisdictional time-bar and arguments concerning ***Brady*** violations. ***See*** Appellant's Brief, 2/20/25, 2, 9.

with the nickname, "Tay," and an affiliation to the Lansdowne Group who lived in the Lansdowne area. ***Id***.

On May 15, 2025, the PCRA court issued notice of its intent to dismiss Appellant's third PCRA petition without an evidentiary hearing pursuant to Pennsylvania Rule of Criminal Procedure 907. On July 1, 2025, the PCRA court dismissed Appellant's third PCRA petition. Appellant timely filed a notice of appeal. ***See*** Notice of Appeal, 7/30/25, 1. Appellant and the PCRA court subsequently complied with Pennsylvania Rule of Appellate Procedure 1925. ***See*** Order (Rule 1925), 8/1/25, 1; Appellant's Rule 1925(b) Statement, 8/21/25, 1; PCRA Court Opinion, 9/19/25, 1.

Appellant presents the following question for our review:

> Did the PCRA Court err by dismissing [Appellant's] PCRA claim that newly[-]discovered ***Brady*** material warranted a new trial, where the evidence directly refuted the Commonwealth's crucial argument?

Appellant's Brief, 2 (numeral prompt and suggested answer omitted).

Our standard of review of the PCRA court's dismissal of a post-conviction petition is well-settled:

> Our standard of review of the denial of a PCRA petition is limited to examining whether the evidence of record supports the [PCRA] court's determination and whether its decision is free of legal error. This Court grants great deference to the factual findings of the PCRA court if the record contains any support for those findings. We review the court's legal conclusions *de novo*.

Commonwealth v. Sargent, 359 A.3d 441, 447 (Pa. Super. 2026) (internal citations, quotation marks, and brackets omitted).

"Before addressing the merits of Appellant's claim[], we must first determine whether we have jurisdiction to entertain the underlying PCRA petition." ***Commonwealth v. Whitehawk***, 146 A.3d 266, 269 (Pa. Super. 2016) (citations omitted). Our Supreme Court has explained the PCRA's jurisdictional requirements as follows:

> [a] PCRA petition, including a second or subsequent one, must be filed within one year of the date the petitioner's judgment of sentence becomes final, unless he pleads and proves one of the three exceptions outlined in 42 Pa.C.S. § 9545(b)(1). A judgment [of sentence] becomes final at the conclusion of direct review by th[e Pennsylvania Supreme] Court or the United States Supreme Court, or at the expiration of the time for seeking such review. The PCRA's timeliness requirements are jurisdictional; therefore, a court may not address the merits of the issues raised if the petition was not timely filed. The timeliness requirements apply to all PCRA petitions, regardless of the nature of the individual claims raised therein. The PCRA squarely places upon the petitioner the burden of proving an untimely petition fits within one of the three exceptions.

Commonwealth v. Jones, 54 A.3d 14, 16-17 (Pa. 2012) (internal citations and footnote omitted).

Here Appellant's judgment of sentence became final on April 24, 2014, 90 days after our Supreme Court denied Appellant's petition for allowance of appeal on direct review. ***See Hill***, 84 A.3d 1062; ***see also*** U.S.Sup.Ct.R. 13(1). Appellant filed the instant petition on July 5, 2024, more than ten years after his judgment of sentence became final. "Thus, [Section] 9545 clearly dictates the PCRA court had no jurisdiction to entertain the instant petition unless [A]ppellant pled and proved one of the three statutory exceptions." ***Jones***, 54 A.3d at 17. However, Appellant argues that he meets

the newly-discovered facts time-bar exception because the information that provides the basis for his ***Brady*** claim comes from police intelligence reports that were only disclosed to him on July 5, 2023, a year to the day prior to the filing of the instant appeal. ***See*** Appellant's Brief, 9; ***see also*** 42 Pa.C.S. § 9545(b)(1)-(2) (explaining that the newly-discovered facts exception requires the demonstration of facts that were previously unknown to the petitioner and could not have been ascertained by the exercise of due diligence, and that the exception must be invoked within one year of the facts being discovered). Like the PCRA court and the Commonwealth, we are satisfied that Appellant's discovery of the information in the documents attached to his petition, which he proffered in support of his substantive ***Brady*** claim, fell within the newly-discovered facts exception to the PCRA's time-bar (*i.e.*, that he became aware, for the first time and within one year of filing his petition, of the existence of police documents concerning at least one other person who used the same nickname as Appellant in the area relevant to the crimes at issue). ***See*** PCRA Court Opinion, 7; ***see also*** Appellee's Brief, 6/16/26, 7. Agreeing with the application of the time-bar exception, we now proceed with substantive review of the only claim presented.

As to the specifics of Appellant's underlying claim, Appellant alleges that the police reports were material under ***Brady*** and should have been disclosed to him because the reports "directly refute[] the Commonwealth's core argument that [Appellant] is 'Tae from the Avenue' because of the unique characteristics of that name." Appellant's Brief, 10. Appellant claims that,

had he had access to the reports in discovery, he could have used them at trial to cross-examine the investigating detectives concerning whether they possibly ignored "potential leads" for other suspects, as well as to present proof to the jury that "other Tae's from the Avenue" actually existed. ***Id.*** at 11-12 (internal quotation marks omitted).

Concerning disclosure violations under ***Brady***,

> [i]t is well-settled that ***Brady*** and subsequent precedent flowing therefrom impose[ ] upon a prosecutor the obligation to disclose all favorable evidence that is material to the guilt or punishment of an accused, even in the absence of a specific request by the accused. Th[e Pennsylvania Supreme] Court has held that, to establish a ***Brady*** violation, a defendant has the burden to prove that: (1) the evidence at issue was favorable to the accused, either because it is exculpatory or because it impeaches; (2) the prosecution has suppressed the evidence, either willfully or inadvertently; and (3) the evidence was material, meaning that prejudice must have ensued.

Commonwealth v. Johnson, 353 A.3d 609, 631 (Pa. 2026) (internal citations and footnote omitted).

Concerning police evidence, our Supreme Court has explained, that "there is 'no constitutional requirement that the prosecution make a complete and detailed accounting to the defense of all police investigatory work on a case.'" ***Commonwealth v. Natividad***, 200 A.3d 11, 26 (Pa. 2019), ***quoting Moore v. Illinois***, 408 U.S. 786, 795 (1972). The "mere possibility that an item of undisclosed information *might* have helped the defense, or might have affected the outcome of the trial, does not establish materiality in the

constitutional sense." ***Commonwealth v. Willis***, 46 A.3d 648, 656 (Pa. 2012) (citation omitted; emphasis in original).

Instead, evidence is material under ***Brady***, and prejudice will have occurred from its suppression, when

> a defendant shows a "reasonable probability that[,] had the evidence been disclosed to the defense, the result of the proceeding would have been different." A reasonable probability does not mean that the defendant would more likely than not have received a different verdict with the evidence; it means only that the likelihood of a different result is great enough to undermine confidence in the outcome of the trial.

Johnson, 353 A.3d at 631 (footnote and some quotation marks omitted). Furthermore, a defendant cannot establish materiality by "simply alleg[ing] that the withheld evidence may have opened the door to an otherwise unavailable defense theory, or to challenge the completeness of the police investigation[,]" but instead a defendant must also show how the withheld evidence "undermines the confidence in the jury's verdict[.]" ***Natividad***, 200 A.3d at 37-38. Withheld evidence that in no way calls into question any of the evidence proving a defendant committed a crime is not material. ***See id.*** at 36.

Here, no one is arguing that the police intelligence documents were not at least somewhat favorable to Appellant nor that the prosecution did not inadvertently suppress the evidence.[6] Instead, the critical question is

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[6] While the documents in question were part of the Philadelphia Police Department's file, and not the District Attorney's Office's file, our Supreme
(Footnote Continued Next Page)

whether, with the evidence having been withheld, Appellant "received a fair trial, understood as a trial resulting in a verdict worthy of confidence." ***Natividad,*** 200 A.3d at 33, ***quoting Kyles v. Whitley***, 514 U.S. 419, 434 (1995). After review of the record, we find that there is not a reasonable probability that, had the Commonwealth turned over the documents in question in pre-trial discovery, it would have undercut the evidence adduced at trial that Appellant was Ellis's killer such that the result would have been different. ***See id.*** at 34-35.

The PCRA court aptly summarizes the evidence linking Appellant to the crime:

> 1) [Appellant] lived in the area of 56th Street and Lansdowne Avenue[;] 2) [Appellant] had a tattoo of the letters "LA" on his face, which was associated with people living in the area of Lansdowne Avenue[;] 3) [Appellant] was seen driving a vehicle prior to the murder that matched the description of the shooter's vehicle given by witnesses to the murder[;] and 4) that [Appellant] confessed to someone who grew up with him that he was paid $15,000 to kill the decedent and that he "emptied the whole clip" into the decedent.

PCRA Court Opinion, 9-10. The police intelligence documents do not undercut, contradict, weaken, or call into question any of the evidence—particularly not the most compelling testimony, from Drummond, that Appellant admitted to shooting Ellis in exchange for money—that the jury heard at trial before

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Court has found that "the prosecution's ***Brady*** obligation clearly extends to exculpatory evidence in the files of police agencies of the same government bringing the prosecution." ***Commonwealth v. Burke***, 781 A.2d 1136, 1142 (Pa. 2001) (footnote omitted).

finding Appellant guilty of murdering Ellis. ***See Natividad***, 200 A.3d at 32-36.

Appellant's arguments that the police intelligence documents would have let him question the police about the thoroughness of their investigation and would strengthen his defense that a different "Tae" killed Ellis by providing some concrete examples of other people who were known by the same nickname "Tae" that were at some point in time known to the police, one of whom was also associated with Lansdowne Avenue, are exactly the sort of arguments ***Natividad*** prohibits. ***See*** Appellant's Brief, 12-13; ***see also Natividad,*** 200 A.3d at 37 ("It is not enough, for purposes of establishing materiality under ***Brady***, to simply allege that the withheld evidence may have opened the door to an otherwise unavailable defense theory, or to challenge the completeness of the police investigation.") (footnote omitted). As far as Appellant's claim that the documents would have allowed him to question the police on the thoroughness of their investigation, the two documents in question are from incidents three and five years before the instant murder, involving unrelated victims, and of the two people who were referred to by the nickname "Tay," only one was associated with Lansdowne Avenue. The police were not required to follow up with every individual in their database that merely shared the same nickname in order to have conducted a thorough investigation given the evidence in this case, the information from Drummond, that specifically and directly identified Appellant as the alleged shooter.

The lack of inclusion of the documents in pre-trial discovery did not stop Appellant from arguing that Donte is a popular name and that the Commonwealth had the wrong "Tae" during trial. ***See*** N.T. Jury Trial, 6/20/11, 220-222; ***see also*** N.T. Jury Trial, 6/22/11, 144-46, 154. While Appellant claims that, had the documents been shared, he would have been able to use that evidence as proof to augment his defense, that is mere speculation that does not meet the burden of undermining confidence in the jury verdict. ***See Natividad***, 200 A.3d at 36 ("Given th[e] overwhelming and intact evidence of [Natividad]'s guilt, [the Pennsylvania Supreme Court was] not persuaded by his argument that he would have had a 'much stronger defense' had he been able to present an alternate perpetrator theory[.]"); ***see also Commonwealth v. Paddy***, 15 A.3d 431, 451 (Pa. 2011) (finding that police reports dated two years prior to the murder Paddy was found guilty of committing that were not connected to the murder or the victim but involved the victim's boyfriend were not material evidence under ***Brady*** despite Appellant's assertions and theory, absent any other evidence, that someone in the victim's boyfriend's family murdered the victim). The police intelligence documents contain no information linking the individuals that share a nickname with Appellant to the crime, beyond that shared nickname, which, to Appellant's own point, is short for a "very common name" that he himself supposes would be shared by "hundreds" in the area if they did a survey. N.T. Jury Trial, 6/20/11, 220; N.T. Jury Trial, 6/22/11, 154. What makes Appellant stand out from all those other hypothetical individuals who phonetically use

nicknames like Tae and Tay is all the evidence outlined ***supra*** which links him, specifically, to the crime, none of which is undercut by the documents at issue. As there is no reason to believe that the proffered documents undermine confidence in the outcome of the trial, the documents are not material under ***Brady*** and the trial court properly dismissed Appellant's third PCRA petition.

Order affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/25/2026