

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
LAWRENCE A. GAINES	:	
	:	
Appellant	:	No. 766 EDA 2025

Appeal from the PCRA Order Entered January 30, 2025
In the Court of Common Pleas of Northampton County Criminal Division
at No(s): CP-48-CR-0003210-2012

BEFORE: PANELLA, P.J.E., LANE, J., and BENDER, P.J.E.

MEMORANDUM BY BENDER, P.J.E.:

FILED SEPTEMBER 3, 2026

Lawrence A. Gaines (“Appellant”) appeals from the order denying as untimely his petition for relief under the Post-Conviction Relief Act (“PCRA”).¹ We affirm.

Appellant was convicted, among other crimes, of murder in the first degree and sentenced to the mandatory term of life imprisonment without the possibility of parole for killing William Thompson (“Thompson”). We briefly recount the essential facts. In the early morning of July 3, 2012, Thompson knocked on the back door of 613 Ferry Street, a known drug house. Appellant and Tony Williams (“Williams”) were inside; Williams testified that he spoke to Thompson and told him that the homeowner had shut down the house for the evening. Thompson continued knocking, and Appellant eventually went

¹ 42 Pa.C.S. §§ 9541 – 9546.

outside to confront Thompson. Williams followed and saw Appellant punch Thompson.

Williams broke up the ensuing fight and Thompson left. Shortly thereafter, Williams saw Thompson “coming back down the street with a ‘big stick.’ Williams observed that the stick . . . ‘was like a rail, like an old house rail or something.’” **Commonwealth v. Gaines**, 1938 EDA 2013, 2014 WL 10588519, at *2 (Pa. Super. filed Sept. 2, 2014) (quoting trial court opinion) (unpublished memorandum). Thompson attacked Appellant, and the two scuffled on the ground. Williams saw Appellant take “a knife out of his back right pocket . . . and [Appellant] began to stab [Thompson]” while Thompson was still on the ground. **Id.** Williams and Appellant fled.

On direct appeal, Appellant argued that the evidence was insufficient to support the murder charge because the Commonwealth failed to disprove that he acted in self-defense. We disagreed and affirmed his judgment of sentence. Appellant sought further review with our Supreme Court, which denied his petition. **Commonwealth v. Gaines**, 109 A.3d 678 (Pa. 2015) (*per curiam*).

Appellant filed a timely petition for relief under the PCRA on June 8, 2015. Appellant asserted that trial counsel ineffectively failed to: (1) request a jury instruction regarding the lethality of Thompson’s weapon; (2) sufficiently advise Appellant that his testimony would be needed to support his defenses; and (3) challenge the weight of the evidence. The PCRA court denied the petition, and we affirmed the denial of PCRA relief.

Commonwealth v. Gaines, 115 EDA 2018, 2018 WL 4346381 (Pa. Super. filed Sept. 12, 2018) (unpublished memorandum).

Appellant filed the instant *pro se* petition on January 5, 2023, alleging ineffectiveness “for failing to raise [an] ‘intent’ issue.” *Pro se* Petition, 1/5/23, at 1. The PCRA court appointed Matthew Potts, Esq., who filed a two-page amended petition, alleging in cursory fashion that “[Appellant] believes and therefore avers that [c]ounsel was ineffective to object [*sic*] to the jury instruction concerning the use of a deadly weapon on a vital part of the body.” Amended Petition, 10/9/24, at ¶ 7.

The Commonwealth filed a motion to dismiss, citing Appellant’s failure to plead and prove any exception to the time-bar. The PCRA court granted that motion on January 30, 2025, and dismissed the petition, explicitly noting that the amended petition was untimely and “does not allege any [timeliness] exception.” Order, 1/30/25, at n.1. The PCRA court did not enter an order addressing Attorney Potts’ status.

Appellant filed a *pro se* notice of appeal, which he sent directly to this Court. The PCRA court ordered Attorney Potts to file a Rule 1925(b) statement. Meanwhile, on April 4, 2025, we issued an order noting that we had forwarded the document to the court of common pleas for filing. Order, 4/4/25 at 1. We also observed that a review of the docket showed that the court of common pleas had entered a filing date of March 17, 2025. ***Id.*** We directed the PCRA court to correct the docket and additionally held that the

prisoner mailbox rule applied, such that the notice of appeal shall be deemed timely based on the February 25, 2025, envelope postmark date. ***Id.***

On May 14, 2025, the PCRA court issued a Rule 1925(a) statement, acknowledging its compliance with the order. The PCRA court pointed out that no Rule 1925(b) had been filed, reiterated its January 30, 2025, conclusion that the petition failed to plead and prove an exception to the time-bar, and accordingly determined that the court lacked jurisdiction over the petition. PCRA Court Opinion (original), 5/14/25, at unnumbered 3.

We designated Attorney Potts as counsel of record due to the fact that the PCRA court had not granted him permission to withdraw, and directed him to file docketing statements as required by Pa.R.A.P. 3517. Attorney Potts did not respond, and we issued an order remanding the matter to the PCRA court to determine whether Attorney Potts “has abandoned Appellant and to take further action as appropriate.” Order, 8/21/25, at 1. We also ordered the PCRA court to “consider whether Appellant may file a . . . statement *nunc pro tunc*.” ***Id.***

On October 7, 2025, the PCRA court filed an order vacating Attorney Potts’ appointment and appointed current counsel, Edwin León, Esquire. The PCRA court granted Attorney León’s motion for leave to file a Rule 1925(b) statement *nunc pro tunc*. Appellant, through counsel, then filed a Rule 1925(b) statement raising substantive claims for relief, some of which were not raised in the underlying PCRA petitions. The statement did not address the timeliness of either petition. The PCRA court filed a supplemental opinion,

once again noting the timeliness issue. PCRA Court Opinion (Supplemental), 1/13/26, at 3. The supplemental opinion also noted that the statement raised ‘several new issues ... not previously ... presented’ to the PCRA court. **Id.** at 4.

Appellant now raises the following claims on appeal:

A. Whether Trial Counsel was ineffective for failing to challenge the Commonwealth’s proof of specific intent to kill and failing to request instructions on lesser-included homicide offenses, such as murder of the third degree or voluntary manslaughter.

B. Whether the court erred in convicting Appellant for first-degree murder when the charge was unsupported by sufficient evidence of specific intent to kill, where the killing occurred during a sudden, reactive struggle without deliberation or premeditation.

Appellant’s Brief at unnumbered 12.

“Initially, we note that our standard of review from the denial of a PCRA petition ‘is limited to examining whether the PCRA court’s determination is supported by the evidence of record and whether it is free of legal error.’” **Commonwealth v. Sandusky**, 203 A.3d 1033, 1043 (Pa. Super. 2019) (quotation marks and citation omitted). We apply a *de novo* standard of review to questions of law. **Id.**

Here, the PCRA court dismissed the amended petition due to its failure to plead and prove an exception to the time-bar. The PCRA requires that all petitions “including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final.” 42 Pa.C.S. § 9545(b)(1). Appellant’s judgment of sentence became final on May 18, 2015, which was 90 days after our Supreme Court denied his petition for allowance of appeal.

Id. at (b)(3) (“[A] judgment becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.”); U.S. Sup. Ct. R. 13 (providing 90 days to file a petition in the United States Supreme Court). Thus, his *pro se* petition filed January 5, 2023, which Attorney Potts sought to amend, is patently untimely.

To prevail, Appellant must show that the *pro se* petition was timely filed. “It is well-settled that, relative to PCRA petitions, questions of timeliness are jurisdictional in nature; therefore, courts must address these questions as threshold issues.” **Commonwealth v. Smith**, 310 A.3d 94, 102 (Pa. 2024) (citation omitted). Appellant’s brief fails to address the timeliness of the *pro se* petition. Instead, his brief proceeds directly to the merits of the issues raised in the *nunc pro tunc* Rule 1925(b) statement. Appellant has therefore failed to meet his burden of proving that the PCRA court erred in dismissing his petition. **See Commonwealth v. Mickeals**, 335 A.3d 13, 21 (Pa. Super. 2025) (“It is axiomatic that a party fails to meet their burden if they do not present any evidence. Mickeals’s failure to present any evidence that a timeliness exception applied deprived the PCRA court of jurisdiction and was fatal to his Petition.”). Furthermore, neither the *pro se* petition nor the amended petition cited or discussed timeliness, and Appellant cannot plead the exception for the first time on appeal. **See Commonwealth v. Blackwell**, 936 A.2d 497, 500 (Pa. Super. 2007) (“Normally, failure to allege

a timeliness exception in the PCRA petition itself precludes the petitioner from raising it on appeal.”).

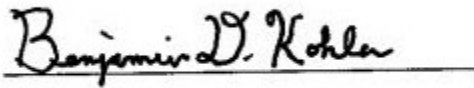
On this latter point, we briefly address the procedural posture of this case and issue preservation requirements. The PCRA court denied the amended petition filed by Attorney Potts, which did not cite any timeliness exception. As previously noted, procedural irregularities ensued, ultimately resulting in Attorney León receiving permission to file a Rule 1925(b) statement *nunc pro tunc*. Attorney Leon did not file, or seek to file, an amended PCRA petition.

However, because the PCRA court had already dismissed the counseled petition, Appellant could not raise new matters in the Rule 1925(b) statement. Appellant, at that point in time, was limited to the issues litigated in the amended petition, and, specifically, whether the PCRA court correctly concluded that the petition failed to assert a time-bar exception. Attorney León could have raised ineffective assistance of counsel claims relative to Attorney Potts’ amended petition’s failure to plead and prove an exception to the time-bar, and/or failure to object to the lack of a Rule 907 notice alerting Appellant to the defect. ***See generally Commonwealth v. Bradley***, 261 A.3d 381 (Pa. 2021) (discussing process by which ineffective assistance of collateral counsel claims may be raised); ***Commonwealth v. Taylor***, 65 A.3d 462, 468 (Pa. Super. 2013) (“The failure to challenge the absence of a Rule 907 notice constitutes waiver.”).

In any event, Appellant has failed to plead and prove an exception to the time-bar, and we therefore affirm the order dismissing his amended petition.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/3/2026