

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
GARY GODDARD	:	
	:	
Appellant	:	No. 3227 EDA 2025

Appeal from the PCRA Order Entered November 18, 2025
In the Court of Common Pleas of Bucks County Criminal Division at
No(s): CP-09-CR-0004365-2018

BEFORE: LAZARUS, P.J., MURRAY, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY MURRAY, J.:

FILED AUGUST 28, 2026

Gary Goddard (Appellant) appeals, *pro se*, from the order dismissing, as untimely filed, his second Post Conviction Relief Act (PCRA) petition.¹ We affirm.

Though the facts underlying Appellant's convictions are not essential to our disposition, we briefly summarize them as follows. On May 4, 2018, an altercation during a party outside of a residence in Bristol, Pennsylvania, culminated in multiple shootings, which resulted in the deaths of Tommy Ballard and Zyisean McDuffie (McDuffie). ***Commonwealth v. Goddard***, 245 A.3d 1102, 2097 EDA 2019 (Pa. Super. 2020) (unpublished memorandum at

* Retired Senior Judge assigned to the Superior Court.

¹ 42 Pa.C.S.A. §§ 9541-9546.

2). Both Appellant and his co-defendant, Joseph Williams (Williams), fired shots that struck McDuffie. **Id.** (unpublished memorandum at 3-6). Though Appellant shot McDuffie in the forehead while he was still alive, the medical examiner determined Williams had fired the fatal shot. **Id.**

Appellant and Williams were jointly tried before a jury. **Id.** (unpublished memorandum at 8). Appellant testified that he acted in defense of his son, who had been involved in the altercation. **Id.** (unpublished memorandum at 8-9). The jury convicted Appellant of one count each of criminal attempt to commit criminal homicide, discharge of a firearm into an occupied structure, recklessly endangering another person, and possessing an instrument of crime.^{2, 3} On June 13, 2019, the trial court sentenced Appellant to an aggregate term of 12½ to 25 years' imprisonment.

Appellant timely appealed, and this Court affirmed his judgment of sentence on December 28, 2020. **See generally id.** The Pennsylvania Supreme Court denied Appellant's petition for allowance of appeal on August 24, 2021. **Commonwealth v. Goddard**, 261 A.3d 1034 (Pa. 2021).

This Court previously detailed the ensuing procedure as follows:

On November 10, 2021, [Appellant timely] filed a *pro se* PCRA petition, his first, and the PCRA court subsequently appointed counsel. On September 26, 2022, [Appellant] filed a counseled

² 18 Pa.C.S.A. §§ 901, 2501, 2707.1(a), 2705, 907(a).

³ The jury convicted Williams of, *inter alia*, two counts of first-degree murder. **Commonwealth v. Goddard**, 334 A.3d 369, 2509 EDA 2023 (Pa. Super. 2025) (unpublished memorandum at 5 n.2).

amended PCRA petition in which he raised several claims alleging the ineffectiveness of his trial and appellate counsel. ... On July 24, 2023, the PCRA court issued notice pursuant to Pennsylvania Rule of Criminal Procedure 907 of its intent to dismiss [Appellant's] petition without a hearing, to which [Appellant] responded on August 13, 2023. On September 15, 2023, the PCRA court dismissed [Appellant's] petition. [Appellant] timely appealed to this Court.

Goddard, 334 A.3d 369 (unpublished memorandum at 5-6). On January 9, 2025, we affirmed the PCRA court's dismissal of Appellant's first PCRA petition. **See generally id.** Our Supreme Court subsequently denied allowance of appeal. **Commonwealth v. Goddard**, 342 A.3d 691 (Pa. 2025).

On October 3, 2025, Appellant filed the instant, *pro se* PCRA petition, his second. Therein, Appellant identified three claims of trial counsel's ineffective assistance. **See** PCRA Petition, 10/3/25, at 2, 4. On October 24, 2025, the PCRA court issued Rule 907 notice of its intent to dismiss Appellant's petition without a hearing. On November 18, 2025, the PCRA court entered a final order dismissing the petition.⁴

⁴ The PCRA court's Rule 907 notice provided Appellant with 20 days to file a response thereto. **See** Rule 907 Notice, 10/24/25, at 1. In its Pa.R.A.P. 1925(a) opinion, the PCRA court noted that it received Appellant's *pro se* response to its Rule 907 notice on November 24, 2025—11 days after it was due and after the petition had already been dismissed. **See** PCRA Court Opinion, 2/3/25, at 5. The PCRA court further noted that, though the judge received Appellant's response in chambers, Appellant may not have properly filed it with the clerk of courts, "as it is not reflected on the docket." **Id.** at 5 n.1. The PCRA court attached Appellant's response as an exhibit to its Rule 1925(a) opinion. **See id.**, Exhibit A.

Appellant timely appealed to this Court. The PCRA court did not order Appellant to file a Rule 1925(b) concise statement. The PCRA court filed a Rule 1925(a) opinion.

Appellant identifies the following questions for our review:

1. Whether trial counsel was ineffective for failing to address the tampering [with] physical evidence on the part of [] Jackie Valentine ..., who arrived at the crime scene with [McDuffie] and was permitted to drive off in the vehicle belonging to [McDuffie]?
2. Whether trial counsel was ineffective for failing to address the prejudice of having the Commonwealth show the jury all of the legal firearms that Appellant owned legally under the Second Amendment?
3. Whether trial counsel was ineffective for failing to request [a jury] instruction on attempt to commit voluntary manslaughter – heat of passion and imperfect defense of others[?]
4. Whether trial counsel was ineffective for failing to present [the testimony of] the probation officer of Appellant's son[,] who could testify [regarding] the threats made against his son, where counsel knew of this witness'[s] testimony?
5. Whether trial counsel failed to present and preserve Appellant's claim of self-defense (of others)[,] where Appellant notified counsel of the identities of these witness(es)?

Appellant's Brief at 5.

We review the dismissal of a PCRA petition to "determine whether the ruling of the PCRA court is supported by the record and free of legal error."

Commonwealth v. Sanders, 357 A.3d 480, 486 (Pa. Super. 2026) (citation omitted). Our scope of review "is limited to the findings of the PCRA court and the evidence of record, viewed in the light most favorable to the prevailing

party at the PCRA court level.” ***Commonwealth v. Shields***, 347 A.3d 752, 762 (Pa. Super. 2025) (citation omitted).

Before reaching a PCRA petition’s substantive merits, we must first consider its timeliness. ***See Commonwealth v. Giles***, 357 A.3d 555, 559 (Pa. Super. 2026). “The timeliness requirement for PCRA petitions is mandatory and jurisdictional in nature, and the court may not ignore it in order to reach the merits of the petition.” ***Id.*** (citation omitted); ***see also Commonwealth v. Reeves***, 296 A.3d 1228, 1230-31 (Pa. Super. 2023) (“If a PCRA petition is untimely, a court lacks jurisdiction”).

Any PCRA petition, “including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final.” 42 Pa.C.S.A. § 9545(b)(1). A judgment of sentence 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.” ***Id.*** § 9545(b)(3).

Instantly, Appellant’s judgment of sentence became final on November 22, 2021, 90 days after the Pennsylvania Supreme Court denied allowance of appeal, when Appellant’s time to seek review in the United States Supreme Court expired. ***See Goddard***, 261 A.3d 1034; ***see also*** U.S. SUP. CT. R. 13. Appellant’s October 3, 2025, petition is therefore facially untimely.

“If a PCRA petition is untimely filed, the jurisdictional time-bar can only be overcome if the petitioner alleges and proves one of the three statutory exceptions, as set forth in 42 Pa.C.S.A. § 9545(b)(1).” [***Commonwealth v. Fantauzzi***, 275 A.3d [986,]

996 [(Pa. Super. 2022)]. The statutory exceptions are colloquially known as exceptions for governmental interference, a newly-discovered fact, or a newly-recognized constitutional right which applies retroactively. **See** 42 Pa.C.S.[A.] § 9545(b)(1). Moreover, [the petitioner must] plead and prove that he filed his petition within one year of the date any claims for application of the statutory time-bar exceptions “could have been presented.” 42 Pa.C.S.[A.] § 9545(b)(2). “We emphasize that it is the petitioner who bears the burden to allege and prove that one of the timeliness exceptions applies.” **Commonwealth v. Marshall**, 596 Pa. 587, 947 A.2d 714, 719 (2008).

Giles, 357 A.3d at 560. “That burden necessarily entails an acknowledgment by the petitioner that the PCRA petition under review is untimely....” **Commonwealth v. Ward-Green**, 141 A.3d 527, 531 (Pa. Super. 2016) (citation omitted).

Instantly, the PCRA court determined that “Appellant d[id] not acknowledge” his second PCRA petition’s untimeliness, “nor d[id] he invoke any of the ... exceptions to the PCRA’s time[-]bar.” PCRA Court Opinion, 2/3/25, at 8. The PCRA court concluded Appellant failed to establish the applicability of any timeliness exception, and therefore dismissed the petition as untimely filed. **Id.** at 9.

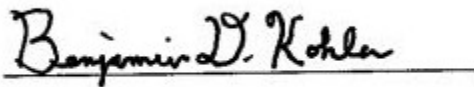
We agree with the PCRA court’s analysis and conclusion. Our review confirms that Appellant’s petition failed to invoke any timeliness exception.⁵

⁵ Appellant utilized a pre-printed PCRA petition form. **See generally** PCRA Petition, 10/3/25. Page 3 of the form is dedicated to the timeliness exceptions. **See id.** at 3. Appellant left page 3 blank, checking none of the boxes and including no allegations germane to his petition’s timeliness. **Id.** Additionally, while we agree with the PCRA court that Appellant’s response to (Footnote Continued Next Page)

Further, Appellant's brief fails to address his petition's untimeliness, and instead focuses on the substantive merits of his underlying ineffectiveness claims. **See generally** Appellant's Brief. However, because Appellant failed to establish an exception to the PCRA's timeliness requirement, neither the PCRA court nor this Court has jurisdiction to consider the merits of Appellant's claims. We therefore affirm the PCRA court's order dismissing Appellant's second PCRA petition as untimely filed.

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: 8/28/2026

its Rule 907 notice was neither timely nor properly filed, **see** n.4 *supra*, we observe that the response failed to acknowledge or address the petition's untimeliness. **See** PCRA Court Opinion, 2/3/25, Exhibit A.