NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
WILLIAM LAMONT SHOULDERS	:	
Appellant	:	No. 1143 WDA 2025

Appeal from the PCRA Order Entered August 21, 2025
In the Court of Common Pleas of Allegheny County Criminal Division at No(s): CP-02-CR-0012457-1999

BEFORE: KING, J., NEUMAN, J., and BENDER, P.J.E.

MEMORANDUM BY NEUMAN, J.: **FILED: November 9, 2026**

Appellant, William Lamont Shoulders, appeals *pro se* from the post-conviction court's August 21, 2025 order dismissing, as untimely, his serial petition filed pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S. §§ 9541-9546. We affirm.

This Court previously summarized the pertinent facts and procedural history of Appellant's case, as follows:

> Briefly, on May 25, 2001, a jury convicted Appellant of one count of first-degree murder and other related offenses. On August 6, 2001, Appellant received a sentence of life imprisonment without the possibility of parole for his first-degree murder conviction. This Court affirmed his judgment of sentence on February 6, 2006. ***Commonwealth v. Shoulders***, 897 A.2d 522 (Pa. Super. 2006) (unpublished memorandum). Subsequently, Appellant filed a petition for allowance of appeal with our Supreme Court, which was denied on May 25, 2006. ***See Commonwealth v. Shoulders***, 899 A.2d 1123 (Pa. 2006). Therefore, Appellant's judgment of sentence became final on August 23, 2006, when the time for filing a petition for writ of *certiorari* to the U.S. Supreme

> Court expired. ***See*** 42 Pa.C.S. § 9545(b)(3) (stating that a judgment of sentence becomes final at the conclusion of direct review or the expiration of the time for seeking the review); U.S.Sup.Ct.R. 13 (providing that "[a] petition for a writ of *certiorari* seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review").

Commonwealth v. Shoulders, No. 218 WDA 2018, unpublished memorandum at 1-2 (Pa. Super. filed Feb. 19, 2019) (footnote omitted).

Appellant thereafter filed a timely, *pro se* PCRA petition. Counsel was appointed and filed a petition to withdraw pursuant to ***Commonwealth v. Turner***, 544 A.2d 927 (Pa. 1988), and ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988) (*en banc*). The court ultimately dismissed Appellant's petition and, after this Court affirmed on appeal, our Supreme Court denied Appellant's subsequent petition for allowance of appeal. ***See Commonwealth v. Shoulder***, 4 A.3d 685 (Pa. Super. 2010) (unpublished memorandum), *appeal denied*, 14 A.3d 827 (Pa. 2011).[1]

On April 25, 2011, Appellant filed another, *pro se* PCRA petition. Therein, he alleged his "trial counsel had filed a pretrial motion for discovery requesting, *inter alia*, the clothing of the victim[,]" and the Commonwealth had committed a ***Brady***[2] violation by not producing the victim's clothing. ***Commonwealth v. Shoulders***, No. 312 WDA 2013, unpublished

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[1] We note the caption for this decision lists Appellant's surname as "Shoulder," rather than "Shoulders," as his name is spelled in the certified record.

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

memorandum at 2 (Pa. Super. filed Mar. 7, 2014). The PCRA court dismissed Appellant's petition as untimely, and this Court affirmed on appeal. ***Id.***

On November 24, 2017, Appellant filed his third, *pro se* PCRA petition, arguing he met the newly-discovered-fact exception of 42 Pa.C.S. § 9545(b)(1)(ii) because the Commonwealth had failed to turn over the victim's clothing in response to his pretrial motion seeking that evidence, which violated Appellant's constitutional right to due process. ***See Shoulders***, No. 218 WDA 2018, unpublished memorandum at 5. Again, the PCRA court dismissed Appellant's petition. On appeal, we affirmed, concluding Appellant could not meet the timeliness exception of section 9545(b)(1)(ii), as "the facts upon which Appellant's claims [were] predicated have been known, or could have been ascertained [earlier], by Appellant." ***Id.*** Our Supreme Court denied Appellant's subsequent petition for allowance of appeal. ***Commonwealth v. Shoulders***, 217 A.3d 205 (Pa. 2019).

On June 29, 2022, Appellant filed a fourth, *pro se* PCRA petition, which underlies the instant appeal. Therein, he claimed, *inter alia*, that on June 15, 2022, he "became aware of a new forensic gunshot distance determination test" called "The Laser Induced Breakdown Spectroscopy (LIBS)[,]" which "will provide exculpatory evidence that [Appellant] is innocent." Petition, 6/29/22, at unnumbered 2. Appellant asked the PCRA court to grant him discovery of "the clothing worn by the [victim]" that was previously "withheld" by the

Commonwealth so it could be subject to LIBS testing. ***Id.*** at unnumbered 1.[3] Appellant also claimed the Commonwealth violated Pa.R.Crim.P. 573, which governs pretrial discovery, by not turning over the victim's clothing prior to trial. ***Id.*** at unnumbered 3. Accordingly, Appellant argued his constitutional right to due process was violated. ***Id.***

For some reason, the PCRA court took no action on Appellant's petition for several years. Finally, on July 14, 2025, the court issued a Pa.R.Crim.P. 907 notice of its intent to dismiss Appellant's petition as untimely. Appellant filed a *pro se* response, but on August 21, 2025, the PCRA court issued an order dismissing his petition. Appellant filed a timely, *pro se* notice of appeal on September 15, 2025. Appellant and the court complied with Pa.R.A.P. 1925. Herein, Appellant states four issues for our review:

> 1. Whether [the] PCRA court abused its discretion denying [A]ppellant's motion for discovery of the clothing worn by the [victim] when it is essential to develop[ing] a due process violation?
>
> 2. Whether the prosecution violated discovery [R]ule 573 by withholding evidence specifically requested in a written Motion for Discovery?
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> 3. Whether Appellant was denied due process by the prosecution's violation of [Rule] … 573?
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> 4. Whether Appellant meets the exceptional circumstance standard to permit discovery?

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[3] That same day, Appellant also filed a separate, *pro se* "Motion for Discovery[,]" in which he requested discovery of the clothing worn by the victim, and copies of any gunshot residue testing that had been completed in this case. ***See*** Motion for Discovery, 6/29/22, at unnumbered 1.

Appellant's Brief at 4 (some formatting altered).

This Court's standard of review regarding an order denying a petition under the PCRA is whether the determination of the PCRA court is supported by the evidence of record and is free of legal error. ***Commonwealth v. Ragan***, 923 A.2d 1169, 1170 (Pa. 2007). We begin by addressing the timeliness of Appellant's petition, because the PCRA time limitations implicate our jurisdiction and may not be altered or disregarded in order to address the merits of a petition. ***See Commonwealth v. Bennett***, 930 A.2d 1264, 1267 (Pa. 2007). Under the PCRA, any petition for post-conviction relief, including a second or subsequent one, must be filed within one year of the date the judgment of sentence becomes final, unless one of the following exceptions set forth in 42 Pa.C.S. § 9545(b)(1)(i)-(iii) applies:

> **(b) Time for filing petition.--**
>
> (1) Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final, unless the petition alleges and the petitioner proves that:
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> (i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States;
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> (ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or
>
> (iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time

> period provided in this section and has been held by that court to apply retroactively.

42 Pa.C.S. § 9545(b)(1)(i)-(iii). Additionally, section 9545(b)(2) requires any petition attempting to invoke one of these exceptions "be filed within one year of the date the claim could have been presented." 42 Pa.C.S. § 9545(b)(2).

Here, Appellant's judgment of sentence became final in August of 2006. Thus, his instant petition filed in 2022 is patently untimely and for this Court to have jurisdiction to review the merits thereof, Appellant must prove he meets one of the exceptions to the timeliness requirements set forth in 42 Pa.C.S. § 9545(b). However, in his appellate brief, Appellant makes no attempt to plead or prove any of the above-stated exceptions, or mention his discovery of the ostensibly new LIBS test he referenced in his PCRA petition. Instead, Appellant argues the Commonwealth violated his constitutional rights and Rule 573 by not turning over the victim's clothing in response to Appellant's pretrial discovery request. ***See*** Appellant's Brief at 6-7, 8-9. He contends "[t]he clothing is material because after testing for gunshot residue, [it] will provide admissible evidence that [A]ppellant acted in self-defense." ***Id.*** at 7.

Appellant does not explain how this argument satisfies the newly-discovered-fact exception set forth in his petition, or any other timeliness exception. Moreover, he clearly knew about the Commonwealth's purported violation of his due process rights and Rule 573 prior to his trial. In fact, he has litigated this same claim in varying forms in prior PCRA proceedings. Therefore, not only is this not a 'new fact' that can satisfy section

9545(b)(1)(ii), but Appellant is also precluded from obtaining relief on this claim which has been previously litigated before this Court. ***See*** 42 Pa.C.S. § 9543(a)(3) (stating to be eligible for PCRA relief, the petitioner must plead and prove his claim was not previously litigated); 42 Pa.C.S. § 9544(a) (stating a claim has been previously litigated if "the highest appellate court in which a petitioner could have had review as a matter of right has ruled on the merits of the issue").[4]

Finally, we address Appellant's argument the PCRA court erred by not granting his current request for discovery to obtain the victim's clothing. Appellant acknowledges that, "[i]n a PCRA proceeding, discovery is only permitted upon leave of court after a showing of exceptional circumstances." Appellant's Brief at 10 (citing Pa.R.Crim.P. 902(E)(1) ("Except as provided in paragraph (E)(2) [dealing with death penalty cases], no discovery shall be permitted at any stage of the proceedings, except upon leave of court after a showing of exceptional circumstances.")). He maintains the Commonwealth's violation of Rule 573 constitutes an exceptional circumstance, as it amounted

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[4] Additionally, although Appellant does not mention the LIBS testing in his appellate brief, the PCRA court "noted that LIBS testing related to gunshot residue has been referenced for years prior to 2022." PCRA Court Opinion (PCO), 1/20/26, at 5 n.1 (citation omitted). Appellant does not refute this fact, or attempt to argue he acted with due diligence in discovering the LIBS testing in 2022. ***See Commonwealth v. Burton***, 158 A.3d 618, 628 (Pa. 2017) (stating that, to prove the newly-discovered-fact exception, "the petition must establish that … the facts upon which the claim was predicated … could not have been ascertained in the exercise of due diligence") (cleaned up).

to the denial of a fair trial, and the PCRA court therefore erred by denying him discovery of the victim's clothing. ***Id.***

We disagree. Initially, our Supreme Court has declared:

> [T]he phrase "exceptional circumstances" is not defined by either the PCRA statute or the criminal rules of procedure, and it is up to the PCRA court, in its discretion, to determine if exceptional circumstances exist and discovery is warranted. We review a PCRA court's denial of a discovery request for an abuse of discretion.

See Commonwealth v. Wharton, 263 A.3d 561, 572-73 (Pa. 2021) (cleaned up).

Here, we reiterate Appellant has known about the Commonwealth's alleged failure to turn over the victim's clothing since before his trial commenced. He has previously litigated challenges to this ostensible violation of his constitutional rights, and rules of discovery, without success. Thus, the PCRA court did not abuse its discretion in concluding these assertions do not constitute exceptional circumstances warranting discovery. Moreover, because Appellant has not pled or proven that he acted with due diligence in discovering the existence of LIBS testing in 2022, he would be unable to satisfy a timeliness exception even if he obtained and tested the victim's clothing using that science. Therefore, there was no exceptional circumstance warranting discovery in this case. Additionally, as Appellant has not pled or proven the applicability of any timeliness exception, the court did not err in dismissing his petition.

Order affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 11/09/2026