

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
	:	
	:	
v.	:	
	:	
	:	
JACK EDWARD SATTERFIELD	:	
	:	
	:	
Appellant	:	No. 661 MDA 2024

Appeal from the PCRA Order Entered July 31, 2023
In the Court of Common Pleas of Dauphin County Criminal Division at
No(s): CP-22-CR-0005794-2018

BEFORE: LAZARUS, P.J., BECK, J., and BENDER, P.J.E.

MEMORANDUM BY BECK, J.:

FILED: JANUARY 6, 2025

Jack Edward Satterfield ("Satterfield") appeals from the order entered by the Dauphin County Court of Common Pleas dismissing his petition pursuant to the Post Conviction Relief Act ("PCRA").¹ Because we conclude that his claims either lack merit or are not cognizable under the PCRA, we affirm.

On the night of October 12, 2018, Satterfield was driving a tractor-trailer through Dauphin County on Interstate 83. Satterfield, who was traveling at approximately sixty-five miles per hour, approached multiple vehicles stopped at a construction zone and without reducing his speed, crashed into the

¹ 42 Pa.C.S. §§ 9541-9546.

vehicles. As a result, three people died and several others were injured. Satterfield fled to a nearby parking lot where police eventually apprehended him. A consensual blood draw revealed that Satterfield had a blood alcohol content of .152%. When police interviewed Satterfield, he admitted to drinking three margaritas and a beer at dinner that evening. Additionally, video police obtained from the cab of his tractor-trailer revealed that Satterfield was drinking alcohol while driving that night.

The PCRA court summarized the procedural history as follows:

On June 6, 2019, [Satterfield] entered [an open] guilty plea to three (3) counts of homicide by vehicle while driving under the influence, three (3) counts of homicide by vehicle, three (3) counts of [leaving the scene of an accident] involving death or personal injury, DUI: commercial vehicle 1st offense, DUI: general impairment 1st offense, reckless driving, careless driving, and restrictions on alcoholic beverages.

On August 6, 2019, [Satterfield] was sentenced to an aggregate [term] of twenty-eight and a half (28½) to sixty-three (63) years of incarceration. ...

... On July 8, 2020, the Pennsylvania Superior Court affirmed [Satterfield]'s judgment of sentence. On July 22, 2021, [t]he Supreme Court of Pennsylvania ... vacated the judgment of sentence and remanded to [the trial court] for resentencing. More specifically, the Supreme Court of Pennsylvania found that two of [Satterfield]'s three sentences [for] leaving the scene of an accident involving death or personal injury[] were illegal[, as the Court determined he could only be punished for leaving the scene of an accident one time. **[See Commonwealth v. Satterfield, 255 A.3d 438 (Pa. 2021)].**

On October 4, 2021, [Satterfield] was resentenced to an aggregate [term] of twenty-seven (27) to fifty-four [(54)] years of incarceration. In the resentencing scheme, [Satterfield] was sentenced to [three concurrent terms for his leaving the scene of an accident involving death or personal injury convictions.]

... On May 31, 2022, [the Superior Court vacated two of Satterfield's three judgments of sentence for leaving the scene of an accident involving death or personal injury, but determined there was no need to remand for resentencing, as this Court did not disrupt the trial court's overall sentencing scheme. **[See *Commonwealth v. Satterfield*, 1521 MDA 2021 (Pa. Super. May 31, 2022) (non-precedential decision).]**

On September 19, 2022, [Satterfield] filed a PCRA petition. On September 22, 2022, [the PCRA court] appointed William [Shreve], Esquire, to represent [Satterfield].

PCRA Court Opinion, 6/14/2023, at 1-2.

On November 14, 2022, Attorney Shreve filed a petition to withdraw and no-merit letter pursuant to ***Commonwealth v. Turner***, 544 A.2d 927 (Pa. 1988), and ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988) (en banc). On June 14, 2023, the PCRA court issued notice of its intent to dismiss Satterfield's PCRA petition and granted Attorney Shreve's petition to withdraw. The PCRA court dismissed Satterfield's PCRA petition on July 31, 2023. On February 5, 2024, Satterfield filed a pro se notice of appeal.

Prior to addressing Satterfield's claims, we must determine whether he properly invoked our jurisdiction by timely filing a notice of appeal. **See *Commonwealth v. Powell*, 290 A.3d 751, 757 n.12 (Pa. Super. 2023)** ("Jurisdiction is vested in the Superior Court upon the filing of a timely notice of appeal"). Because the PCRA court dismissed his petition on July 31, 2023, the thirty-day period for filing a timely notice of appeal expired on August 30, 2023. **See** Pa.R.A.P. 903(a) ("the notice of appeal required by Rule 902 (manner of taking appeal) shall be filed within 30 days after the entry of the

order from which the appeal is taken"). As stated above, the PCRA court's docket indicates that Satterfield did not file his notice of appeal until February 5, 2024, well after the thirty-day deadline, and it is therefore facially untimely.

This Court has concluded, however, that "[w]here the trial court docket in a criminal case does not indicate service on a party or the date of service [of the order under appeal], we will not quash the appeal or require further proceedings. Rather, we will treat the time in which to take an appeal as never having started to run and treat the appeal as timely." **Commonwealth v. Midgley**, 289 A.3d 1111, 1117 (Pa. Super. 2023); **see also** Pa.R.Crim.P. 114(C)(2)(c) (stating that the docket entries "shall contain" the "date of service of the order").

Here, we recognize that while the PCRA court's July 31, 2023 order indicates that a copy of the order was to be sent to Satterfield and Attorney Shreve, who the court had permitted to withdraw, the docket does not contain a notation indicating that Satterfield received service of the order or the date of service. We also recognize that the docket contains an entry indicating the clerk of courts received a signed certified mail card on August 7, 2023, from Satterfield's prison address. Because of the lack information on the mail card, however, we have no way of determining exactly what filing that mail card acknowledged receipt.

The holding in **Midgley** that the appeal period does not begin to run if the docket fails to note service in compliance with Rule 114 contains no

exceptions, and in particular, no exception permitting inquiry into whether or when an appellant was in fact served. **See *Midgley***, 289 A.3d at 1115-17. Because ***Midgley*** holds that the absence of the Rule 114 notation of service on the docket prevents the appeal period from running and there is no notation on the docket in this case regarding service of the order dismissing the PCRA petition on Satterfield, we decline to quash this appeal as untimely.

Turning our attention to the arguments Satterfield presents for review, we begin by acknowledging our standard of review. "We review the denial of PCRA relief by examining whether the PCRA court's conclusions are supported by the record and free from legal error." ***Commonwealth v. Johnson***, 289 A.3d 959, 979 (Pa. 2023). "[W]e defer to the factual findings of the post-conviction court, which is tasked with hearing the evidence and assessing credibility. ***Id.*** Our standard of review of a PCRA court's legal conclusions, however, is de novo. ***Id.***

For his first issue, Satterfield argues that his trial counsel was ineffective for failing to raise a claim before the trial court that his convictions of homicide by vehicle and homicide by vehicle while driving under the influence should have merged for purposes of sentencing. Satterfield's Brief at 9.

It is well[]settled that counsel is presumed to have been effective and that the petitioner bears the burden of proving counsel's alleged ineffectiveness. To overcome this presumption, a petitioner must establish that: (1) the underlying substantive claim has arguable merit; (2) counsel did not have a reasonable basis for his or her act or omission; and (3) the petitioner suffered prejudice as a result of counsel's deficient performance, that is, a

reasonable probability that but for counsel's act or omission, the outcome of the proceeding would have been different.

Commonwealth v. Reid, 259 A.3d 395, 405 (Pa. 2021) (quotation marks and citation omitted). Importantly, a PCRA petitioner must address each of these three prongs not only before the PCRA court but also on appeal, as the petitioner bears the burden of pleading that counsel provided ineffective assistance. ***Id.*** This Court, however, need not review the elements pertaining to claims of ineffective assistance of counsel in any particular order, as the law is clear that “[a] petitioner’s failure to satisfy any prong of this test is fatal to the claim.” ***Id.***

Section 3732 of the Pennsylvania Motor Vehicle Code defines homicide by vehicle as follows:

Any person who recklessly or with gross negligence causes the death of another person while engaged in the violation of any law of this Commonwealth or municipal ordinance applying to the operation or use of a vehicle or to the regulation of traffic except section 3802 (relating to driving under influence of alcohol or controlled substance) is guilty of homicide by vehicle, a felony of the third degree, when the violation is the cause of death.

75 Pa.C.S. § 3732(a).

The Motor Vehicle Code also defines homicide by vehicle while driving under the influence as follows:

A person who unintentionally causes the death of another person as the result of a violation of section 3802 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section 3802[.]

Id. § 3735(a).

Regarding merger and sentencing, section 9765 of the Pennsylvania Judicial Code provides:

No crimes shall merge for sentencing purposes unless the crimes arise from a single criminal act and all of the statutory elements of one offense are included in the statutory elements of the other offense. Where crimes merge for sentencing purposes, the court may sentence the defendant only on the higher graded offense.

42 Pa.C.S. § 9765. As our Supreme Court has explained, section 9765 prohibits merger “unless two distinct facts are present: 1) the crimes arise from a single criminal act; and 2) all of the statutory elements of one of the offenses are included in the statutory elements of the other.”

Commonwealth v. Baldwin, 985 A.2d 830, 833 (Pa. 2009).

This Court has already held that homicide by vehicle and homicide by vehicle while driving under the influence do not merge for sentencing purposes. ***Commonwealth v. Grays***, 167 A.3d 793, 814 (Pa. Super. 2017).

The elements of homicide by vehicle are not included in the elements of homicide by vehicle-DUI. In fact, the crimes require proof of different elements. Homicide by vehicle requires the cause of death to be the result of a violation of a motor vehicle law or ordinance **other than a DUI violation**[.] On the other hand, homicide by vehicle-DUI explicitly requires a DUI conviction as an element of the crime.

Id. at 814-15 (emphasis added; unnecessary capitalization, quotation marks, and citation omitted).

As there can be no dispute that Satterfield’s convictions of homicide by vehicle and homicide by vehicle while driving under the influence could not merge for purposes of sentencing, his argument that trial counsel was

ineffective for failing to raise this claim before the trial court lacks arguable merit. **See Reid**, 259 A.3d at 405. Accordingly, his first issue does not entitle him to relief.

For his second issue, Satterfield argues that the trial court erred in imposing “a manifestly excessive aggregate sentence.” Satterfield’s Brief at 10. He contends that even though each of his sentences were within the guideline range, the consecutive nature of the court’s sentencing scheme resulted in an excessive sentence. **See id.**

Satterfield’s claim challenges the discretionary aspects of his sentence. **See Commonwealth v. Gonzalez-Dejesus**, 994 A.2d 595, 597-98 (Pa. Super. 2010) (explaining that a claim that the trial court erred in imposing consecutive sentences is a challenge to the discretionary aspects of a sentence); **Commonwealth v. Lee**, 876 A.2d 408, 411 (Pa. Super. 2005) (stating that claim that the trial court erred in imposing an excessive sentence is a challenge to the discretionary aspects of a sentence). It is well settled, however, that a challenge to the discretionary aspects of a sentence is not cognizable under the PCRA. **Commonwealth v. Wrecks**, 934 A.2d 1287, 1289 (Pa. Super. 2007). On that basis, he second claim fails.

For his third issue, Satterfield baldly asserts he is entitled to relief because the Commonwealth violated **Brady v. Maryland**, 373 U.S. 83 (1963), by failing “to provide the complete discovery [sic] to [Satterfield].” Satterfield’s Brief at 11. In **Brady**, the United States Supreme Court held that

"the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution."

Id. at 87.

Other than an unsupported allegation that the Commonwealth committed a ***Brady*** violation, Satterfield's appellate brief contains no meaningful discussion or argument, including no citation to any pertinent authority nor an identification of what exculpatory evidence the Commonwealth allegedly withheld. **See** Satterfield's Brief at 11. Because Satterfield has not developed an argument capable of meaningful appellate review, he has waived his claim that the Commonwealth committed a ***Brady*** violation. **See *Commonwealth v. Johnson***, 985 A.2d 915, 924 (Pa. 2009) ("where an appellate brief fails to ... develop the issue in any [] meaningful fashion capable of review, that claim is waived"). Moreover, Satterfield did not raise this claim in his PCRA petition and for that reason, the claim is likewise waived. **See *Commonwealth v. Elliott***, 80 A.3d 415, 430 (Pa. 2013) (explaining that the failure to raise a claim in the PCRA petition results in waiver of that claim on appeal).

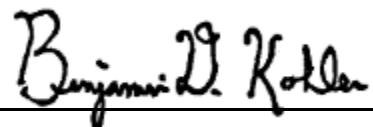
For his final issue, Satterfield argues that the trial court erred in failing to sentence him pursuant to the recently enacted 8th Edition of the Sentencing Guidelines, which would have resulted in a shorter sentence. Satterfield's Brief at 12. According to 204 Pa. Code § 303a.2(a)(3), however, "[t]he

sentencing guidelines shall apply to all offenses committed on or after the effective date of the guidelines. Editions or amendments to the sentencing guidelines shall apply to all offenses committed on or after the effective date of the edition or amendment to the guidelines.” ***Id.*** Because the 8th Edition to the Sentencing Guidelines became effective on January 1, 2024, they do not apply to Satterfield, who committed his offenses on October 12, 2018.

See id. We therefore conclude that Satterfield’s final claim does not entitle him to relief.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Benjamin D. Kohler". The signature is fluid and cursive, with "Benjamin" and "D." on the first line and "Kohler" on the second line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 1/6/2025