

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
JOHN E. LONGENDORFER	:	
	:	
Appellant	:	No. 1596 WDA 2025

Appeal from the PCRA Order Entered November 14, 2025
In the Court of Common Pleas of Venango County
Criminal Division at No: CP-61-CR-0000802-2017

BEFORE: STABILE, J., DUBOW, J., and STEVENS, P.J.E.*

MEMORANDUM BY STABILE, J.:

FILED: August 26, 2026

Appellant, John E. Longendorfer, appeals from an order dismissing his petition for relief under the Post Conviction Relief Act, 42 Pa.C.S.A. §§ 9541-9546. We affirm.

During an earlier stage of this case, the PCRA court summarized the evidence introduced at Appellant's jury trial as follows:

[T]he charges stem from a letter that Kathleen Talley, [Appellant's] former live-in girlfriend, received [in late November] 2017. Ms. Talley immediately recognized the handwriting on the envelope to be that of [Appellant]. Upon opening the letter [Ms. Talley] discovered that the letter was not written in [Appellant's] handwriting. However, the letter contained personal details about Ms. Talley's life and of her personal relationship with [Appellant]. Suspecting the letter to have been authored by [Appellant], Ms. Talley contacted the Oil City Police Department (OCPD)[,] because at the time Ms. Talley had an active Protection from Abuse (PFA) Order against [Appellant]. Ms. Talley was instructed to turn the envelope and letter over to Officer Robert Culp of the OCPD. Upon

* Former Justice specially assigned to the Superior Court.

review of the envelope, Officer Culp immediately recognized the handwriting [on the envelope] to be that of [Appellant]. Although Officer Culp noticed that the letter was not in [Appellant's] handwriting, he noticed that certain statements contained in the letter refer specifically to [Appellant's] relationship with Ms. Talley and the letter stated facts about Ms. Talley that only [Appellant] would know. After review of the envelope and letter, Officer Culp filed a Criminal Complaint against [Appellant] charging him with committing the following offenses: (1) Stalking/Prior Acts, 18 Pa.C.S.A. § 2709.1(a)(2), a felony of the third degree[,] and (2) Harassment, 18 Pa.C.S.A. § 2709(a)(7), a misdemeanor of the second degree.

PCRA Court Opinion, 12/12/23, at 3. A jury found Appellant guilty of both offenses. On July 23, 2018, the court imposed concurrent terms of 36-72 months' imprisonment on the stalking conviction and 6-12 months' imprisonment on the harassment conviction. The court ordered Appellant to serve the aggregate term of 36-72 months consecutively to any sentence previously imposed on Appellant. Appellant waived his right to legal representation at sentencing.

Appellant filed a *pro se* notice of direct appeal, but on August 12, 2019, he filed a *praecipe* to discontinue the appeal. On January 8, 2020, Appellant filed a timely PCRA petition *pro se* raising three allegations of trial counsel's ineffective assistance. Appellant alleged that counsel failed to: (1) obtain a forensic handwriting expert; (2) argue to the jury that the postmark on the envelope precluded the finding that he mailed the letter; and (3) object to the testimony of Officer Culp identifying Appellant's handwriting on the envelope. The PCRA court appointed counsel but later permitted counsel to withdraw in August 2020. The court appointed second PCRA counsel and ordered counsel

to file an amended petition by October 4, 2020. Second PCRA counsel did not file an amended petition.

On May 5, 2022, Appellant filed a *pro se* motion for the court to compel second PCRA counsel to file an amended petition or to appoint new counsel. Counsel filed a motion to withdraw, which the PCRA court granted on July 5, 2022. Appellant appealed the order granting counsel's withdrawal, and the PCRA court appointed third PCRA counsel to represent Appellant on appeal. In its Rule 1925(a) opinion, the PCRA court noted that its July 5 order was not a final order. Third PCRA counsel filed a motion to withdraw the appeal, and this Court discontinued the appeal via order entered on December 29, 2022.

On February 8, 2023, the PCRA court issued an order directing PCRA counsel, within 30 days, either to notify the District Attorney's Office that the *pro se* PCRA petition would not be amended or file an amended petition. The order also set an April 17, 2023, date for a status listing either to set a hearing date or a deadline for a **Turner/Finley**¹ letter. Despite this order, there was no amendment to the PCRA petition, no notice to the District Attorney's Office from PCRA counsel that a **Turner/Finley** letter would be filed, and no motion to proceed *pro se*.

Nonetheless, on August 1, 2023, the court presided over an evidentiary hearing on a single allegation of ineffective assistance of trial counsel for not obtaining a forensic handwriting specialist. Trial counsel, Jeri Bolton, Esquire,

¹ **See Commonwealth v. Turner**, 544 A.2d 927 (Pa. 1988), and **Commonwealth v. Finley**, 550 A.2d 213 (Pa. Super. 1988).

testified at the hearing and was questioned on direct examination by PCRA counsel. Attorney Bolton testified that she spoke with a handwriting expert prior to trial but decided against introducing expert testimony, because she knew Appellant had handwritten the envelope and the Commonwealth would not contend that Appellant wrote the letter. Therefore, expert testimony would only have corroborated the accuracy of the Commonwealth's contentions at trial.

The Commonwealth argued to the PCRA court that Attorney Bolton's testimony supported a finding there was a reasonable basis for counsel's trial strategy, because expert testimony that "the envelope came from [Appellant]" would be contrary to the defense that Ms. Talley was accusing Appellant out of vindictiveness. N.T., 8/1/23, at 27-28 ("why would she want an expert to verify that the envelope came from him, because then their defense is sunk because...it proves he did, in fact, send it?"). PCRA counsel responded that Attorney Bolton should have hired a handwriting expert because "had the analyst returned an opinion that ... the envelope that contained the letter was not authored by [Appellant], that would have opened the door to other defenses." ***Id.*** at 28. Counsel argued that such an opinion would have "offered a greater potential for success" than relying on the defense that Ms. Talley accused Appellant out of vindictiveness.

Notably, at no time during PCRA proceedings did Appellant submit an expert forensic report or identify an expert who would have supported his claim that he did not author the envelope.

In an opinion and order filed on December 13, 2023, the PCRA court denied relief on the first claim of ineffective assistance. The court ruled that the underlying claim “may be of arguable merit” because trial counsel “did not obtain a handwriting expert to analyze the envelope and letter in preparation for trial.” PCRA Court Opinion, 12/12/23, at 4. The court noted that Attorney Bolton’s testimony focused on whether there was a reasonable basis “for her inaction.” **Id.** The PCRA court ruled that, “[i]t was entirely reasonable for Attorney Bolton to pursue an alternative defense strategy as she was immediately able to discern that the letter was not written by her client, but the envelope was.” **Id.** at 5. Thus, Appellant’s speculative alternate strategy “would not have offered a potential for success greater than the course actually pursued.” **Id.** Accordingly, the PCRA court concluded that Appellant was “unable to sustain his burden of demonstrating the second prong of the ineffectiveness test, *i.e.*, whether counsel had a reasonable basis.” **Id.** The PCRA court did not address either of the other two allegations of ineffective assistance raised in Appellant’s *pro se* PCRA petition.

On January 9, 2024, Appellant, through counsel, filed a timely notice of appeal. On January 26, 2024, in response to the PCRA court’s order to file a Pa.R.A.P. 1925 statement, PCRA counsel filed a statement of intent to file a **Turner/Finley** brief and to withdraw as counsel. On March 25, 2024, counsel filed the **Turner/Finley** brief and a motion for leave to withdraw as counsel.

On April 3, 2025, this Court entered a nonprecedential memorandum remanding the case back to the PCRA court for further proceedings. We stated

that PCRA counsel failed to comply with the PCRA court's February 8, 2023, order, effectively making Appellant's PCRA Petition uncounseled. We remanded this case to the PCRA court to confirm that PCRA counsel conferred with the Petitioner and determined whether: (1) an amended PCRA petition would be filed, (2) a **Turner/Finley** letter would be filed addressing all claims raised, or (3) Appellant requested to proceed *pro se* through a **Grazier**² hearing.

On June 23, 2025, the PCRA Court held a hearing in which Appellant appeared and was represented by Joseph Ferguson, Esquire. Appellant indicated that he wished to withdraw Count 2 and Count 3 from his PCRA Petition and raise an additional claim. The Court issued an order that same day directing PCRA counsel to raise additional issues in an amended PCRA petition.

On July 22, 2025, Appellant filed an amended PCRA Petition re-raising his first ineffective assistance of counsel claim and asserting a new claim that he was not guilty of the charges in the present case because he was not properly served with notice of a temporary protection from abuse ("PFA") order in an underlying PFA case.

On August 21, 2025, Attorney Ferguson filed a motion to withdraw as counsel accompanied by a **Turner/Finley** letter. On September 10, 2025, the Court denied Attorney Ferguson's motion to withdraw. On October 27,

² **Commonwealth v. Grazier**, 552 Pa. 9, 713 A.2d 81 (1998).

2025, the court held a PCRA evidentiary hearing in which Appellant testified and was represented by Attorney Ferguson.

In an opinion and order entered November 14, 2025, the PCRA court dismissed Appellant's amended petition. This timely appeal followed. Both Appellant and the PCRA court complied with Pa.R.A.P. 1925.

Appellant raises two issues in this appeal:

1. Did the PCRA Court err in denying relief on Appellant's claim that trial counsel was ineffective for failing to obtain a handwriting analysis expert?
2. Whether the PCRA court erred in denying relief where trial counsel was ineffective for failing to challenge the constitutionally defective service of the underlying [PFA] petition, thereby permitting the Commonwealth to rely on a constitutionally infirm PFA order to obtain Appellant's convictions for stalking and harassment?

Appellant's Brief at 12.

Our standard of review when reviewing the dismissal of PCRA petition is well settled:

Our review of a PCRA court's decision is limited to examining whether the PCRA court's findings of fact are supported by the record, and whether its conclusions of law are free from legal error. We view the findings of the PCRA court and the evidence of record in a light most favorable to the prevailing party. With respect to the PCRA court's decision to deny a request for an evidentiary hearing, or to hold a limited evidentiary hearing, such a decision is within the discretion of the PCRA court and will not be overturned absent an abuse of discretion. The PCRA court's credibility determinations, when supported by the record, are binding on this Court; however, we apply a *de novo* standard of review to the PCRA court's legal conclusions.

Commonwealth v. Mason, 130 A.3d 601, 617 (Pa. 2015).

In his first argument, Appellant contends that trial counsel was ineffective for failing to present a handwriting expert to testify that Appellant's handwriting was not on the envelope sent to Ms. Talley.

Generally, the law presumes that counsel is effective and places the burden of proving otherwise on the defendant. ***Commonwealth v. Cox***, 983 A.2d 666, 678 (Pa. 2009). To prove that counsel was ineffective, a defendant must demonstrate three elements by a preponderance of evidence: (1) the underlying substantive claim has arguable merit; (2) trial counsel's actions lacked any reasonable basis; and (3) trial counsel's action resulted in prejudice to the defendant. ***Id.*** at 678. Failure to prove any one of these elements will result in dismissal of the ineffectiveness claim. ***Commonwealth v. Pitt***, 313 A.3d 287, 293 (Pa. Super. 2024).

Appellant's claim that counsel was ineffective for failing to call an expert witness lacks arguable merit. Where a claim is made of counsel's ineffectiveness for failing to call witnesses,

it is the appellant's burden to show that the witness existed and was available; counsel was aware of, or had a duty to know of the witness; the witness was willing and able to appear; and the proposed testimony was necessary in order to avoid prejudice to the appellant. The mere failure to obtain an expert...witness is not ineffectiveness. Appellant must demonstrate that an expert witness was available who would have offered testimony designed to advance appellant's cause.

Commonwealth v. Treiber, 121 A.3d 435, 454 (Pa. 2015). Here, Appellant failed to plead or prove that an expert witness was available who would have offered testimony that Appellant's handwriting was not on the envelope. He

did not identify an expert witness in his amended PCRA petition or submit an expert report on this subject during PCRA proceedings. Nor did he present any testimony during the PCRA evidentiary hearings that an expert witness was available to testify. Since Appellant's claim lacks arguable merit, we need not analyze whether Appellant satisfies the other two prongs of ineffectiveness.³ **Pitt**, 313 A.3d at 293.

Next, Appellant argues that counsel was ineffective for failing to contend that service of a PFA petition in an underlying PFA action was constitutionally defective. The PCRA court discussed this issue as follows:

In [Appellant]'s second claim, he asserts he is not guilty of the charges at C.R. No. 802-2017⁴ because he was not properly served with notice of a temporary protection from abuse ("PFA") order at Civ. No. 769-2017. This issue involves a tortured procedural history which the Court summarizes as the following. On July 3, 2017, a temporary PFA order was granted to Talley at Civ. No. 769-2017. On July 18, 2027, notice of the PFA order was served on [Appellant] while he was at UPMC Presbyterian Hospital. On August 17, 2017, [Appellant] was charged by criminal complaint at Miscellaneous Docket number ("MD No.") 51-2017 for contacting Talley in violation of the temporary PFA order. On September 6, 2017, [Appellant] entered a guilty plea to indirect criminal contempt for violating the July 3, 2017 temporary PFA order and received a sentence of six (6) months' probation. On October 14, 2017, [Appellant] consented to a final protection from abuse order at Civ. No. 769-2017.

³ The PCRA court focused mainly on the second prong of the ineffectiveness test and determined that attorney Bolton had a reasonable basis for not presenting an expert. However, this Court may affirm on any valid basis. **See Dockery v. Thomas Jefferson Univ. Hosps., Inc.**, 253 A.3d 716, 721 (Pa. Super. 2021).

⁴ The case presently under review in this PCRA appeal.

On December 8, 2017, [Appellant] again contacted Talley in violation of the PFA order and was charged by criminal complaint at MD No. 76-2017. On December 15, 2017 [Appellant] pleaded guilty to indirect criminal contempt and was sentenced to a period of incarceration for a minimum of three (3) months to a maximum of six (6) months. On January 26, 2018, [Appellant] filed a motion to withdraw his guilty plea. On February 8, 2018, the Court held a hearing addressing [Appellant]’s motion, at which time [Appellant] indicated that he did not wish to withdraw his guilty plea.

On September 7, 2018, [Appellant] filed a PCRA petition challenging his conviction at MD No. 51-2017. On September 13, 2018, the Court denied [Appellant]’s PCRA petition for lack of jurisdiction given that [Appellant] was no longer serving a sentence under MD. No. 51-2017. No appeal of the PCRA was filed on MD. No. 51-2017.

In analyzing [Appellant]’s claim, this Court begins by stating that it is strained to understand the nature of [Appellant]’s claim. [Appellant] does not couch his claim in an ineffective assistance of counsel claim and does not implicate any eligible PCRA claim arising out of 42 Pa.C.S.A. § 9543(a)(2). The court is uncertain how a failure to serve [Appellant] with a PFA order affects [Appellant]’s conviction at C.R. No. 802-2017, and neither [Appellant]’s testimony nor PCRA counsel clarified the nature of the claim. Therefore, the Court begins with the threshold issue of whether it has jurisdiction to consider the merits of [Appellant]’s claim.

To be eligible for PCRA relief, [Appellant] must be “currently serving a sentence of imprisonment, probation or parole for the crime.” 42 Pa. C.S.A. § 9543(a)(1)(i). Here, [Appellant] is not currently serving a sentence of imprisonment, probation, or parole at MD No. 51-2017 or MD No.76-2017. [Appellant] is only serving a sentence of imprisonment for his criminal charges arising at C.R. No. 802-2017. [Appellant] cannot now allege a procedural error at Civ. No. 769-2017 to be a basis for overturning his conviction at C.R. No. 802-2017. A procedural error in a civil case is not a cognizable claim under the PCRA. **See** 42 Pa.C.S.A. § 9543(a)(2). While [Appellant]’s actions formed the basis for both the violations of the PFA at MD No. 51-2017 and MD No. 76-2017 and the criminal charges at C.R. No. 802-2017, each is a distinct docket with separate sentences. [Appellant]’s PCRA petition only

challenges the criminal charges at C.R. No. 802-2017 and not the violations of the PFA order or his conviction at MD No. 51-2017 or MD No. 76-2017. [Appellant] is not permitted to now assert errors on a civil docket to overturn a conviction on a criminal docket.

Furthermore, this issue is waived because [Appellant] had several opportunities prior to the instant PCRA petition to raise this issue but failed to do so. [Appellant] had the opportunity to assert that the Court lacked jurisdiction due to improper service of the temporary PFA order at Civ. No. 769-2017; however, he consented to the Final PFA Order on October 14, 2017. [Appellant] had additional opportunities to assert the challenge to the allegations raised in the indirect criminal contempt complaint at hearings for both MD. No. 51-2017 and MD. No. 76-2017 but instead entered a guilty plea on both dockets. [Appellant] should not now be permitted to raise the issue for the first time in the instant PCRA on an entirely different criminal docket.

PCRA Court Opinion, 11/14/25, at 7-9 (cleaned up).

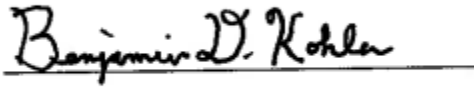
We agree with this analysis. This argument is a collateral attack on convictions in underlying PFA cases for which Appellant is no longer serving a sentence of imprisonment, probation or parole. Thus, the PCRA court lacked jurisdiction to grant relief from these PFA convictions. **See** 42 Pa.C.S.A. § 9543(a)(1)(i) (to be eligible for PCRA relief, the petitioner must be “convicted of a crime under the laws of this Commonwealth and is at the time relief is granted...currently serving a sentence of imprisonment, probation or parole for the crime”). Furthermore, the PCRA court correctly reasoned that Appellant waived this issue by eschewing previous opportunities to raise it in the underlying PFA cases. **See** 42 Pa.C.S.A. § 9544(b) (for purposes of the PCRA, “an issue is waived if the petitioner could have raised it but failed to do

so before trial, at trial, during unitary review, on appeal or in a prior state postconviction proceeding”).

For these reasons, we affirm the PCRA court’s order dismissing Appellant’s amended PCRA 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: 8/26/2026