

: No. 169 WDA 2026

¹ 42 Pa.C.S. §§ 9541-46.

Indecent Assault of a Person less than 13 Years of Age, Unlawful Restraint/Involuntary Servitude, Criminal Attempt-Indecent Assault of a Person less than 13 Years of Age. On April 29, 2013, Appellant received an aggregate sentence of 10 to 20 years of incarceration and a consecutive term of 7 years of probation. The court ordered Appellant to comply with the sexual offender registration and notification requirements applicable to his crimes and additionally classified Appellant as a sexually violent predator, both of which required lifetime registration. Appellant did not file a direct appeal.

On July 11, 2025, over twelve years after his sentence became final, Appellant filed a facially untimely *pro se* PCRA petition, claiming that his sentence is illegal because “Megan’s Law” is unconstitutional. Following her appointment as counsel, Attorney Emily Smarto filed a **Turner/Finley**² letter and an application to withdraw as counsel.

On November 19, 2025, the PCRA court issued a Pa.R.Crim.P. 907 notice of intent to dismiss Appellant’s PCRA petition without a hearing. The court recognized that the case Appellant cited in his petition did not provide Appellant relief; rather, the court observed that **Commonwealth v. Elliott**, 249 A.3d 1190 (Pa. Super. 2021), held that a challenge to SORNA’s registration requirements “pertains to a collateral consequence of one’s criminal sentence and does not fall within the purview of the PCRA.” PCRA Ct. Op., 11/19/25, at 3 (quoting **Elliott**, 249 A.3d at 1193 (citations omitted)).

² **Commonwealth v. Turner**, 544 A.2d 927 (Pa. 1988); **Commonwealth v. Finley**, 550 A.2d 213 (Pa. Super. 1988) (*en banc*).

The PCRA court then held that Appellant was “not entitled to PCRA relief because his [p]etition does not set forth a claim cognizable under the PCRA statute, and, additionally, was untimely filed.” **Id.**

After Appellant did not respond to the notice of intent to dismiss, the PCRA court dismissed Appellant’s petition and granted Attorney Smarto’s petition to withdraw in an order filed on January 15, 2026.

Appellant filed a timely notice of appeal. Appellant and the court complied with Pa.R.A.P. 1925, with the court relying upon its Rule 907 opinion in lieu of a Pa.R.A.P. 1925(a) opinion.

Appellant raises the following questions on appeal:

1. Did [the PCRA] court err in dismissing [Appellant’s] illegal sentence claims as untimely?
2. Can an illegal sentence [claim] be brought at any[]time?
3. [Are] Megan’s [L]aw[’s] requirements and registration unconstitutional?
4. Does the Appellant have a right to have the Megan’s Law registration part of his sentence vacated.

Appellant’s Br. at 2. In so doing, Appellant baldly asserts that his sexual offender registration requirements are unconstitutional, citing **Elliott**, without substantive development. Appellant’s Br. at 4-6.

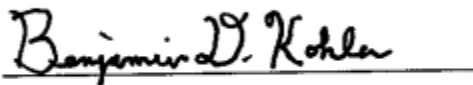
We need not address the merits of Appellant’s arguments because the Supreme Court’s recent holding in **Commonwealth v. Arnett**, 353 A.3d 705 (Pa. 2026), undermines Appellant’s claims. In **Arnett**, the Court held that the PCRA is not a “viable mechanism” to challenge SORNA. **Id.** at 708. The Court

explained “[t]he PCRA exists to provide a means to challenge collaterally a criminal defendant’s conviction or sentence, not the non-punitive consequences attendant to that conviction or sentence.” **Id.** at 715. Given its prior determinations that SORNA II was non-punitive, the Court concluded that “a constitutional challenge to SORNA II[’]s registration terms (and other obligations) is not related to the offender’s ‘sentence or conviction[,]’” and thus, “is not cognizable under the PCRA.”³ **Id.** at 716.

As Appellant’s challenge is not cognizable under the PCRA, we affirm the PCRA court’s dismissal of Appellant’s 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: 08/26/2026

³ The Supreme Court, nevertheless, addressed the merits of Arnett’s claims because Arnett also styled his PCRA petition as a petition for a writ of *habeas corpus*. **Id.** at 716. The Supreme Court further held that, to the extent that Arnett’s claims could be pursued as a petition for a writ of *habeas corpus*, that petition was meritless, because the presumption in both Subchapter I and Subchapter H that sexual offenders pose a higher risk of reoffense “did not violate sexual offenders’ due process or reputational rights.” **Id.** at 720.