

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
RYAN PARSONS (AKA RYAN PARSON)	:	
	:	
Appellant	:	No. 2454 EDA 2025

Appeal from the PCRA Order Entered June 9, 2025
In the Court of Common Pleas of Delaware County Criminal Division at
No(s): CP-23-CR-0003875-2016

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

MEMORANDUM BY BECK, J.:

FILED OCTOBER 13, 2026

Ryan Parsons (also known as Ryan Parson) ("Parsons") appeals from the order dismissing his petition filed pursuant to the Post Conviction Relief Act ("PCRA").¹ Parsons' counsel, Attorney Scott D. Galloway ("Collateral Appeal Counsel"), has filed a petition to withdraw representation and an accompanying brief, which we consider pursuant to **Commonwealth v. Turner**, 544 A.2d 927 (Pa. 1988), and **Commonwealth v. Finley**, 550 A.2d 213 (Pa. Super. 1988) (en banc).² Parsons has filed an application for

¹ 42 Pa.C.S. §§ 9541-9546.

² Collateral Appeal Counsel invoked the procedure set forth in **Anders v. California**, 386 U.S. 738 (1967), in his brief before this Court. The **Turner/Finley** procedure, not **Anders**, is applicable where counsel seeks to withdraw from representation on collateral review. **Commonwealth v. Wrecks**, 931 A.2d 717, 722 (Pa. Super. 2007). Nevertheless, because
(Footnote Continued Next Page)

remand, requesting a **Grazier** hearing³ and raising claims of ineffective assistance of counsel (“IAC”) against Attorney Stephen Dean Molineux, who was appointed to represent him in connection with the petition underlying this appeal (“PCRA Counsel”), Attorney Stephen O’Meara, who was appointed to represent him at trial (“Trial Counsel”), and Collateral Appeal Counsel pursuant to **Commonwealth v. Bradley**, 261 A.3d 381 (Pa. 2021). After review, we deny Parsons’ application for remand, grant Collateral Appeal Counsel’s petition to withdraw, and affirm the order dismissing Parsons’ PCRA petition.

Facts and Procedural History

On August 4, 2015, seventeen-year-old Tyzea Fulton (“Fulton”) was shot while driving a burgundy Buick away from the stop sign at the corner of 9th and Lincoln Streets in Chester, Pennsylvania. Leroy Spence, Fulton’s nineteen-year-old cousin and passenger, heard a voice on the right side of the vehicle and looked up when shots shattered the Buick’s rear window on the driver’s side. From a crouched position, Spence managed to drive the Buick

Anders provides greater protection to a defendant, we will accept this brief but address Counsel’s application under the precepts of **Turner/Finley**. **See Commonwealth v. Widgins**, 29 A.3d 816, 817 n.2 (Pa. Super. 2011).

³ **See Commonwealth v. Grazier**, 713 A.2d 81, 82 (Pa. 1998) (holding that when a litigant seeks to waive the right to counsel at the post-conviction and appellate stages, the PCRA court must conduct a hearing on the record to determine whether the decision to waive counsel is a knowing, intelligent, and voluntary one).

to a hospital and left Fulton there after telling staff that he had been shot. Fulton died at the hospital.

The Commonwealth arrested and charged Parsons for the murder of Fulton and the aggravated assault of Spence. The Commonwealth presented numerous witnesses in Parsons' 2017 bench trial. Parsons, through Trial Counsel's representation, did not present any witnesses or testify on his own behalf.

The Commonwealth's witnesses included Chester City Police Sargeant Katrina Blackwell, who heard rapid gunfire while she was patrolling four houses away. Upon reaching the intersection, she saw Parsons staggering behind a black SUV before falling to the ground as he said "they" had shot him. ***Commonwealth v. Parsons***, 253 A.3d 283, at *1 (Pa. Super. April 15, 2021) (non-precedential decision) (citation omitted). Paramedics transported Parsons to Crozer-Chester Medical Center, where Dr. Jessica Niedowski operated on Parsons and found two gunshot wounds in his pelvic area, which fractured his hip and confined him to a wheelchair.

Officer William Swanson, a crime scene investigator from the Chester Police Department Crime Scene Investigation Division, retrieved four .40 caliber bullet casings and a cigarette butt from the 900 block of Lincoln Street; a sneaker matching the one Parsons was wearing when he was brought to the hospital from the 800 block of Hughes Street; and blood samples from both sites. Parsons' DNA matched that collected from both blood samples and the

cigarette butt. Upon examining the bullet holes in the door and headrest of the Buick, Officer Swanson opined that the bullet passed through the rear window on the driver's side.

Dr. Bennett Preston, a medical examiner, testified that a .40 and .44 caliber round found in Fulton's upper body caused his death, and were consistent with bullets passing through a car window into his chest. Fulton had a deformed bullet in his leg, which, in Dr. Preston's opinion, had passed through a hard object first. The lack of stippling on Fulton's body indicated that Fulton had been shot from more than a foot away.

Detective Louis Grandizio, a firearms examiner, opined based upon the bullets, casings, and fragments recovered from Fulton's body and the crime scene that three different firearms were used at the shooting: a 40-caliber, a 9-mm, and 44-caliber. He opined that the photographic and ballistic evidence was consistent with Parsons running up to the driver's side of the vehicle and, from the location where cartridge casings were found on the street, firing twice through the rear window on the driver's side into Fulton's back and once into his leg.

The investigating officers obtained video surveillance footage from the time of the incident from nearby businesses. Now retired Chester City Police Detective Robert Whitaker had many prior dealings with Parsons and immediately recognized him on the video surveillance footage. A federal law enforcement officer who had contact with Parsons one or two times each

month also identified Parsons as the individual with the gun in the video. The video showed Parsons emerge from an area locally known as “the cut” in the 800 block of Hughes Street, run after a burgundy Buick driving down the street, approach the rear door on the driver’s side as a muzzle flash appears inside the car, fall to the ground, lose his sneaker, get up carrying two firearms in his arms and a cigarette in his mouth, limp around a black SUV parked nearby, and stumble down Hughes Street. ***Id.*** at *2. Detective Michael Jay, a certified firearms instructor, determined from the video that the two firearms carried by Parsons were a semiautomatic pistol and a revolver. An individual in a white t-shirt later identified as “Womack” then picked up two guns from where Parsons fell and ran down 9th Street. ***Id.***

In recordings of telephone calls from federal prison after Parsons’ arrest, Parsons spoke of being out with “two young bulls” when “shit was going down,” and he was not sure if the camera got him because he was running. ***Id.*** Parsons also mentioned that a person nicknamed “big head” (later determined to be Womack’s father) did not think his son would snitch. ***Id.***

The final piece of the Commonwealth’s evidence was the testimony of Carlos Pena (“Pena”), Parsons’ cellmate when he was incarcerated in federal prison on an unrelated matter. Pena was incarcerated after pleading guilty to federal drug charges following his cooperation with federal agents. Pena asked Parsons why he was in a wheelchair. Parsons told him about the murder and how he had been shot. After informing federal agents about the

confession, Pena provided Chester City detectives with a statement in January 2016 and testified consistent with the statement at trial. Special Agent Wayne Netzler, a Criminal Investigator at the Drug Enforcement Administration present for Pena's entire interview, testified that Pena was never threatened or offered anything in exchange for his statement. Chester City Detective Michael Jay testified that Pena's statement contained significant details that had not yet been made public, including the make and model of the subject car, that Parsons ran up to it, the manner in which he was injured, the type of guns used and what happened to them once he had been shot, and Parsons' use of the word "cut" as the alleyway in Chester, a place Pena never had been.

On April 11, 2017, the trial court issued findings of fact and conclusions of law. It found the Commonwealth's exhibits to be accurate and its witnesses credible—including Pena, despite cross-examination challenging his credibility. The trial court convicted Parsons of murder in the first degree, aggravated assault, firearms not to be carried without a license, and two counts each of recklessly endangering another person ("REAP") and possession of an instrument of crime ("PIC"). **See** 18 Pa.C.S. §§ 2502(a), 2702(a)(1), 6106(a)(1), 2705 and 907(a). The same day, it sentenced Parsons to an aggregate term of life in prison without the possibility of parole plus fourteen to twenty-nine years of incarceration.

Parsons filed a counseled direct appeal, which this Court dismissed after Trial Counsel failed to file a brief. Through the PCRA, with the benefit of

appointed counsel, the trial court reinstated Parsons' direct appeal rights nunc pro tunc. On direct appeal nunc pro tunc, after considering challenges to the admission of the evidence and its sufficiency and weight raised by appointed Attorney Elliot M. Cohen ("Direct Appeal Counsel"), this Court affirmed. **Parsons**, 253 A.3d 283, at *1. Our Supreme Court denied his request for further review. **Commonwealth v. Parsons**, 264 A.3d 753 (Pa. Oct. 14, 2021).

Parsons filed a timely PCRA petition pro se on July 20, 2022. Following his appointment, PCRA Counsel obtained several extensions of time before filing an amended PCRA petition on March 21, 2024, raising select claims from Parsons' pro se petition. The Commonwealth filed a motion to dismiss the petition on March 5, 2025.

On May 2, 2025, the PCRA court issued a Rule 907 notice of its intent to dismiss the petition in twenty days' time. Parsons did not file a response. On June 9, 2025, the PCRA court entered an order dismissing Parsons' petition and informing Parsons that if he wishes to appeal the decision, he must file an appeal within thirty days after entry of the order.

On June 30, 2025, while the PCRA court retained jurisdiction and before an appeal had been filed, PCRA Counsel filed an application to withdraw his appearance in the PCRA court, asserting that Parsons no longer wanted PCRA Counsel to represent him and he wished to proceed pro se. Noting the impending appellate deadline, PCRA Counsel sought a thirty-day extension of

time for Parsons to file a notice of appeal. On July 3, 2025, the PCRA court entered an order granting “[PCRA Counsel] ... a thirty ... day extension in which to file an appeal of [the PCRA] court’s dismissal of the PCRA [p]etition.” PCRA Court Order, 7/3/2025, at 1. Four days later, the PCRA court entered an order scheduling a **Grazier** hearing for July 24, 2025. No transcript from the **Grazier** hearing appears in the certified record, but in an order entered on the scheduled day of the hearing, the PCRA court granted PCRA Counsel leave to withdraw and appointed Collateral Appeal Counsel. The next entry in the docket was an order entered on August 21, 2025, purporting to order and decree that Collateral Appeal Counsel “is granted thirty ... days from the date of the signing of this [o]rder to file an [a]ppeal.” PCRA Court Order, 8/21/2025, at 1.

Collateral Appeal

On September 22, 2025, Parsons, through Collateral Appeal Counsel, filed a notice of appeal from the June 9, 2025 dismissal order. Parsons filed a counseled concise statement of matters complained of on appeal and the PCRA court filed an opinion. **See** Pa.R.A.P. 1925(a)-(b). On February 11, 2026, Collateral Appeal Counsel filed a **Turner/Finley** brief and application to withdraw with this Court.⁴ The Commonwealth filed its brief nunc pro tunc on

⁴ **See supra**, note 2.

May 18, 2026. Five months after Collateral Appeal Counsel filed the **Turner/Finley** Brief, Parsons filed an application seeking a proceeding before the PCRA court that he refers to as a “**Grazier** hearing-evidentiary hearing.” **See** Pro Se Application, 7/21/2026, at 1 (numbering supplied).⁵ In the application, Parsons does not offer a rebuttal to the three issues Collateral Appeal Counsel discusses in the **Turner/Finley** brief or set forth a pro se merits brief of appealable issues regarding the PCRA court’s denial of relief from his petition. Instead, as we discuss in more detail herein, Parsons requests that we remand this case to the PCRA court to conduct a **Grazier** hearing and an evidentiary hearing pursuant to **Bradley**, and, inter alia, attempts to assert IAC allegations against Collateral Appeal Counsel, PCRA Counsel, and Trial Counsel. **See id.** at 1-3, 6.

Jurisdiction

Preliminarily, we consider whether we have jurisdiction of this appeal, as it is facially untimely. “[T]he timeliness of an appeal and compliance with the statutory provisions granting the right to appeal implicate an appellate court’s jurisdiction and its competency to act.” **Commonwealth v. Mumford**, 353 A.3d 247, 255 (Pa. Super. 2026). Thus, “[w]e may raise

⁵ Parsons numbers some, but not all, of the pages in his application, and the numbering and ordering of the content is inconsistent. It is not clear which content Parsons considers to be the application and which content is simply an attachment referred to in the application. We consider the filing as a whole and number the pages sequentially, beginning with the letter addressed to this Court with a handwritten date of July 11, 2026.

issues concerning jurisdiction sua sponte.” ***Commonwealth v. Gentry***, 101 A.3d 813, 816 (Pa. Super. 2014).

Generally, a party must file a notice of appeal within thirty days after the entry of the order from which the appeal is taken. Pa.R.A.P. 903(a). Here, Parsons had until July 9, 2025, to file an appeal from the order dismissing his petition entered on June 9, 2025. Perhaps recognizing the facial untimeliness of the September 22, 2025 notice of appeal, Collateral Appeal Counsel referenced the August 21, 2025 order purporting to extend the appellate deadline in his notice of appeal. However, the “mere fact that the trial court purported to extend the time for appeal ... did not affect the running of the time for appeal.” ***Commonwealth v. Anwyll***, 482 A.2d 656, 657 (Pa. Super. 1984). This is because, as a jurisdictional matter, a “court may not enlarge the time for filing a notice of appeal as a matter of grace or indulgence.” ***Commonwealth v. Smith***, 501 A.2d 273, 275 (Pa. Super. 1985); ***see also*** Pa.R.A.P. 105(b) (disallowing enlargement of time for appeal).

This Court will make an exception to the general rule and permit an untimely appeal to proceed in the event of a breakdown in the trial court. ***See*** Pa.R.A.P. 105, cmt. (“Subdivision (b) of this rule is not intended to affect the power of a court to grant relief in the case of fraud or breakdown in the processes of a court.”). When procedural rules require the trial court to notify a defendant as to appellate timeframes, this Court has deemed the trial court’s misstatement or provision of “erroneous information as to appeal period” as a

“breakdown in the court’s operation.” **Commonwealth v. Coolbaugh**, 770 A.2d 788, 791 (Pa. Super. 2001); **see also Commonwealth v. Stansbury**, 219 A.3d 157, 160 (Pa. Super. 2019) (“We have many times declined to quash an appeal when the defect resulted from an appellant’s acting in accordance with misinformation relayed to him by the trial court.”).

The record reflects that the PCRA court purported to extend the time for filing an appeal twice in this matter: first, upon notice that Parsons requested to proceed pro se,⁶ and again following the appointment of new appellate counsel following the **Grazier** hearing. In both instances, the PCRA court informed Parsons and his counsel of an incorrect timeframe for filing an appeal to this Court from the dismissal of his PCRA petition. Thus, a breakdown in the operations of the court occurred and dismissal is not warranted on that basis. **See** Pa.R.A.P. 105, cmt.; **Coolbaugh**, 770 A.2d at 791; **Stansbury**, 219 A.3d at 160.

⁶ We note that the proper course here was for PCRA Counsel to file the notice of appeal on Parsons’ behalf while awaiting the outcome of the **Grazier** hearing and petition to withdraw. **See Commonwealth v. Champney**, 783 A.2d 837, 841 (Pa. Super. 2001) (explaining that counsel who is aware of client’s desire to appeal and seeks to withdraw during appellate window “should have filed the notice of appeal in a timely fashion and then sought leave to withdraw”); **see also Commonwealth v. Parrish**, 224 A.3d 682, 701 (Pa. 2020) (holding that a PCRA petitioner has “right to the effective assistance of post-conviction counsel in pursuing an appeal of denial of post-conviction relief” and “whenever PCRA counsel takes any action that wholly deprives his or her client of the right to appellate review of collateral claims, counsel will be deemed to be ineffective per se”) (emphasis removed).

Dismissal of this appeal is also unwarranted based upon the failure of the court below to abide by Rule 907(4) when dismissing the PCRA petition without a hearing. Pursuant to Rule 907(1), where the PCRA court is satisfied that there are no genuine issues concerning any material fact as to a petitioner's entitlement to post-conviction collateral relief, and no purpose would be served by any further proceedings, the PCRA court is required to notify the parties of the intention to dismiss the petition and the reasons for the dismissal. Pa.R.Crim.P. 907(1). The petitioner has the option of responding to the proposed dismissal within twenty days. ***Id.*** Thereafter, if the judge dismisses the petition without a hearing, the court "promptly shall issue an order" and file and serve the order upon the petitioner or his attorney in accordance with Rule 114. Pa.R.Crim.P. 907(4); ***see also*** Pa.R.Crim.P. 114(B)(1) ("A copy of any order or court notice promptly shall be served on each party's attorney, or the party if unrepresented."), (C)(2) (requiring the court to docket orders and note the date of service in the docket). Furthermore, the judge "shall advise the defendant by certified mail, return receipt requested, of the right to appeal from the final order disposing of the petition and of the time limits within which the appeal must be filed." Pa.R.Crim.P. 907(4).

The docket in this matter shows that the PCRA court sent the dismissal order to PCRA Counsel via first class mail. It does not reflect, however, that the PCRA Court advised Parsons of the right to appeal and the timeframe to

do so via certified mail, as required by Pa.R.Crim.P. 907(4). When a PCRA court fails to comply with the certified mail service requirement of Rule 907, this Court will not quash a facially untimely appeal and shall treat it as timely filed. ***Commonwealth v. Alvin***, 328 A.3d 78, 82 (Pa. Super. 2024).

Given the multiple breakdowns in the PCRA court's operations, we treat Parsons' appeal as timely.

Application to Withdraw Pursuant to Turner/Finley

We now turn to Collateral Appeal Counsel's request to withdraw. We must consider whether such request meets the technical requirements of ***Turner/Finley*** before we consider the merits of the claims raised therein. ***Muzzy***, 141 A.3d at 510.

To be permitted to withdraw from PCRA representation on appeal, collateral appellate counsel "must review the case zealously" and submit a "no-merit" brief on appeal to this Court, "detailing the nature and extent of counsel's diligent review of the case, listing the issues which petitioner wants to have reviewed, explaining why and how those issues lack merit, and requesting permission to withdraw." ***Wrecks***, 931 A.2d at 948. Counsel also must send the petitioner copies of the no-merit brief and petition to withdraw along with a statement advising the petitioner "that upon the filing of counsel's petition to withdraw, the petitioner-appellant has the immediate right to proceed in the appeal pro se or through privately-retained counsel." ***Muzzy***, 141 A.3d at 512.

If counsel's petition to withdraw and no-merit brief satisfy the **Turner/Finley** requirements, this Court will conduct "its own independent review of the record." **Finley**, 550 A.2d at 215. If we agree "with counsel that the claims are without merit, [this Court] will permit counsel to withdraw and deny relief. By contrast, if the claims appear to have merit, [we] will deny counsel's request and grant relief, or at least instruct counsel to file an advocate's brief." **Wrecks**, 931 A.2d at 721.

We conclude that Collateral Appeal Counsel has complied with the technical requirements necessary to withdraw under **Turner/Finley**. Collateral Appeal Counsel asserts that he thoroughly reviewed the record and applicable case law, identifies three issues of arguable merit, and explains why these issues lack merit. Additionally, when providing Parsons notice of his intention to withdraw from representation, Collateral Appeal Counsel advised him of his immediate right to raise any issues with this Court by filing a brief pro se or through privately retained counsel.

Pro Se Application for Remand

Ordinarily, our next step would be to conduct an independent review of the issues raised in the **Turner/Finley** brief. However, before we do, we consider the Parsons' self-styled application for a "**Grazier** hearing-evidentiary hearing." Despite its disjointed presentation, it clearly indicates his desire to pursue IAC claims against Collateral Appeal Counsel. **See Commonwealth v. Greer**, 316 A.3d 623 (Pa. 2024) (requiring immediate

remand in certain circumstances when IAC claim is raised against current counsel).

In the application, Parsons argues that we should remand for the PCRA court to conduct a **Grazier** hearing, in which it would “[e]ngage in ... factfinding” to determine whether he should proceed pro se or with substitute appellate counsel. Pro Se Application, 7/21/2026, at 2. He contends a conflict of interest precludes Collateral Appeal Counsel’s representation of him based upon counsel filing a request to withdraw and his alleged ineffectiveness. **Id.** at 6.

He also requests a remand to develop facts to support his IAC claims, which he wishes to assert against PCRA Counsel and Collateral Appeal Counsel pursuant to **Bradley** now that Collateral Appeal Counsel has filed a **Turner/Finley** brief and request to withdraw. **Id.** at 1-2. He claims that he asked PCRA Counsel and Collateral Appeal Counsel to amend his petition to present the claims referenced in what he refers to as “letters” that he sent to them (and attached to his pro se response),⁷ but that both failed to do so. **Id.** at 1.

⁷ The documents appended to his pro se response include: (1) a “Pro Se Application for Remand,” followed by a portion of the docket in this appeal, containing only introductory paragraphs and no averments of substance; (2) a document addressed to the trial court, dated February 28, 2026, and entitled “Motion for Grazier-Evidentiary Hearing”; (3) “Grounds [f]or Relief,” dated August 12, 2025, referring to non-layered allegations that Trial Counsel provided IAC at trial and a purported **Brady** violation; (4) an untitled and
(Footnote Continued Next Page)

We conclude that remand is not necessary. A petitioner has a rule-based right to the appointment of counsel for a first PCRA petition, which is “effective throughout the post-conviction proceedings, including any appeal from disposition of the petition for post-conviction collateral relief.” Pa.R.Crim.P. 904(C), (F)(2). Our Supreme Court has long held that an “appellant must remain with appointed counsel through the conclusion of appeal” except for the grant of a change of counsel stemming from irreconcilable differences, retention of private counsel, or “a timely petition for self-representation”—i.e., “occurring before the filing of a counseled brief.” ***Commonwealth v. Jette***, 23 A.3d 1032, 1042 (Pa. 2011). In general, appellate courts “presume that counsel is effective and has raised all meritorious issues” on direct or collateral appeal. ***Id.*** at 1044. That appointed counsel disagrees with an appellant’s personal assessment of the merits does not warrant appointment of substitute counsel. ***See Commonwealth v. Kearney***, 341 A.3d 774, 786-87 (Pa. Super. 2025) (reiterating that an indigent appellant appealing from the dismissal of a first PCRA petition is entitled to free counsel but not free counsel of his own choosing). The right to collateral counsel is vindicated through the ***Turner/Finley*** process, as it

undated document containing jumbled unenumerated paragraphs with a myriad of allegations against multiple prior counsel and the prosecutor; and (5) an affidavit and amended PCRA petition, respectively, dated April 13, 2026, and containing boilerplate allegations of IAC that do not have any connection to his case. ***See*** Pro Se Application, 7/21/2026, at 3-19.

affords the appellant “exactly that which she is entitled to receive under state law—an independent review of the record by competent counsel.” **Turner**, 544 A.2d at 928 (quoting **Pennsylvania v. Finley**, 481 U.S. 551, 558 (1987)).

While not coextensive with the right to counsel pursuant to the Sixth Amendment, the rule-based right to collateral counsel does presume that counsel will provide effective assistance. **Bradley**, 261 A.3d at 405. This right is enforced by “allowing a petitioner to raise claims of ineffective PCRA counsel at the first opportunity [(after obtaining new counsel or proceeding pro se)], even if on appeal.” **Id.** “In other words, an appellant may raise a claim of PCRA counsel’s ineffectiveness for the first time on appeal where, owing to the procedural posture of his case, he had no opportunity to raise that claim before the PCRA court.” **Commonwealth v. Davey**, 345 A.3d 1218, 1224 (Pa. Super. 2025).⁸

⁸ The **Bradley** Court alluded to raising IAC claims against counsel seeking to withdraw pursuant to **Turner/Finley**, seemingly in the context of a request to withdraw from representation at the PCRA court level. **See Bradley**, 261 A.3d at 401 n.16. Noting the PCRA court’s inability to appoint new counsel to represent a petitioner when appointed counsel seeks to withdraw, Amici Defender Association of Philadelphia and Pennsylvania Association of Criminal Defense Lawyers urged the Court to permit PCRA courts to appoint new counsel when a PCRA petitioner raises a claim of IAC against counsel seeking to withdraw from representing a meritless petition pursuant to **Turner/Finley**. **Id.** Describing the “**Turner/Finley** no-merit situation” as a “unique context” that was not at issue in that case, the Court declined to resolve this question, including whether the petitioner needed to raise the IAC claim in response to the Rule 907 notice as pre-**Bradley** law required. **Id.** (Footnote Continued Next Page)

Pursuant to **Bradley**, we have the power “to grant or deny relief on straightforward claims” pertaining to IAC if the record is sufficient to dispose of them or to “remand to the PCRA court for the development of the record” and consideration of such claims as an initial matter. **Bradley**, 261 A.3d at 402-03. A remand request must include more than mere boilerplate assertions of PCRA counsel’s ineffectiveness. **Id.** “To be entitled to a remand, the petitioner-appellant must establish that there are issues of material fact concerning claims challenging counsel’s stewardship and that relief may be available.” **Commonwealth v. Parrish**, 273 A.3d 989, 1006 (Pa. 2022). While **Bradley** affords petitioners the opportunity to vindicate the right to effective assistance of counsel, it does “not guarantee a PCRA petitioner substantive review of claims of PCRA counsel’s ineffectiveness, nor did it create an absolute right to remand for development of those claims.” **Commonwealth v. Shields**, 347 A.3d 734, 745 (Pa. Super. 2025).

Thus, **Bradley** does not offer guidance to the issue at hand, both because it did not involve a motion to withdraw and its comments relate to withdrawing from a case at the PCRA court level. Similarly, **Davey** involved a **Turner/Finley** request to withdraw at the PCRA court level. **See Davey**, 345 A.3d at 1224 (finding appellant waived IAC claim against his PCRA counsel on appeal by not raising it in the amended petition that the PCRA court had permitted appellant to file after granting PCRA counsel’s **Turner/Finley** withdrawal motion). Recently, our Supreme Court granted allowance of appeal to consider whether **Bradley** applies to IAC claims connected to counsel’s representation on collateral appeal and when such claim must be raised if so. **Commonwealth v. Coffee**, 358 A.3d 383 (Pa. 2026).

Our Supreme Court recently addressed the procedure for a represented petitioner to raise **Bradley** claims against current counsel in a pending collateral appeal, noting that the opportunity **Bradley** created to enforce the right to effective collateral counsel for the first time on appeal is in “tension” with its limit on the exercise of such right to after petitioner obtained new counsel or elected to proceed pro se. **See Greer**, 316 A.3d at 625.

In that case, Greer’s collateral appeal counsel filed an application for remand early in the appeal, asserting that Greer desired to raise IAC claims against him in connection with counsel’s failure to develop two claims for appeal at the PCRA hearing and to preserve eight claims for appellate review in the concise statement filed with this Court. **Id.** at 626. When this Court is faced with “a clear indication” of an appellant-petitioner’s wish to pursue IAC claims against the counsel currently representing the appellant-petitioner on collateral appeal under these circumstances, the Supreme Court directed this Court to remand the case immediately to the PCRA court for an on-the-record-assessment of the petitioner’s rights and wishes in a **Grazier** hearing. **Id.** at 628-29. The High Court reasoned that a remand at this juncture—without this Court considering the issues raised by counsel in a merits brief or assessing the merits of the pro se allegations—gives the PCRA court “the first opportunity to address factual and legal claims,” discourages piecemeal litigation, avoids hybrid representation, and allows the petitioner to exercise

the option of proceeding pro se to pursue claims of counsel's ineffectiveness. ***Id.*** at 629-31.

In so holding, the ***Greer*** Court emphasized the timeliness of Greer's self-representation request, distinguishing it from an untimely request to waive right to counsel after counsel already filed a merits brief. ***Greer***, 316 A.3d at 629; ***see also Commonwealth v. Robinson***, 320 A.3d 732, 736-40 (Pa. Super. 2024) (applying ***Greer*** to deny post-brief request for remand to raise IAC claims based upon collateral appeal counsel's alleged abandonment on appeal because ***Bradley***'s holding "specifically applies to claims of PCRA counsel's ineffectiveness," untimely self-representation/new counsel request followed collateral appeal counsel's filing of a rule-compliant merits brief, and the PCRA claims themselves were time-barred, but ultimately remanding for a ***Grazier*** hearing because petitioner also filed a motion to stay prior to briefing that constituted clear indication of Robinson's desire to pursue IAC claims against then-current collateral appeal counsel pursuant to ***Greer***). This aligns with our Supreme Court's historical decisions ruling that once counsel files a brief on the appellant's behalf, it is too late for the appellant to waive counsel and proceed pro se on appeal; instead, the appellant must "remain with counsel through the appeal" and may "assert appellate counsel's ineffectiveness at a later time." ***Commonwealth v. Rogers***, 645 A.2d 223, 224 (Pa. 1994); ***see also Grazier***, 713 A.2d at 82 (emphasizing that appellant's request to dismiss counsel and proceed pro se was timely and

occurred before counsel filed an appellate brief); **Jette**, 23 A.3d at 1041 (noting exercise of right to self-representation must occur before the filing of a counseled brief).

In the case at bar, the first indication that Parsons wished to proceed pro se or with different counsel was in his application filed five months after Collateral Appeal Counsel filed the **Turner/Finley** brief. Furthermore, Parsons already had an opportunity to proceed pro se or with new counsel on appeal. After apparently expressing a desire to proceed pro se on appeal in lieu of PCRA Counsel's representation, the PCRA court held a **Grazier** hearing, following which it appointed Collateral Appeal Counsel to represent him. The law is clear that Parsons is not entitled to free counsel of his choosing. **See Jette**, 23 A.3d at 1041-42.⁹

Moreover, there is no right to a **Grazier** hearing at this juncture. As interpreted by **Greer**, the purpose of a **Grazier** hearing in the **Bradley** context is for the PCRA court to determine whether the petitioner wished to knowingly and voluntarily waive his right to appointed counsel's appellate representation and proceed pro se to assert IAC claims against counsel on

⁹ For purposes of our disposition, and because we have no advocacy on the issue, we assume without deciding that in general, petitioners are entitled to appointed counsel and/or self-representation on collateral appeal. **See Coffee**, 358 A.3d at 383; **Greer**, 316 A.3d at 629 n.3 (noting that the question of whether an appellant has a right to self-representation on appeal under state law is an unresolved legal issue after the United States Supreme Court declared there is no federal right to self-representation on appeal, upon which **Grazier's** analysis was premised).

appeal. **Id.** at 625. Now that appointed Collateral Appeal Counsel has filed a counseled brief, it is too late for Parsons to invoke his right to self-representation in lieu of this attorney's representation. **See Grazier**, 713 A.2d at 82; **cf. Rogers**, 645 A.2d at 224 ("[W]e do not agree that a criminal appellant may terminate counsel after the time of counsel's filing of appellate briefs simply because he wishes to file pro se appellate briefs."). This holds true even though Collateral Appeal Counsel did not file a merits brief, as a petitioner's right to counsel is vindicated through the attorney's independent review of the record and this Court's grant of a **Turner/Finley** motion cuts off Parsons' right to additional appointed counsel. **See Turner**, 544 A.2d at 928-29. And even if counsel's performance fell short, as Parsons contends, the **Greer** Court's cabining of the immediate remand directive to the pre-brief timeframe means he is not entitled to develop such claims before we consider the counseled brief. **Greer**, 316 A.3d at 629.

Collateral Appeal Counsel informed Parsons in his letter accompanying the motion to withdraw and **Turner/Finley** brief that the filing of the motion to withdraw triggered Parsons' immediate right to submit his own brief or hire another attorney to submit a brief on his behalf. **See** Letter, 2/9/2025, at 1. Thus, through the **Turner/Finley** process, Parsons already possessed the right to defend the merits of his appeal pro se or with private counsel, as his right is not contingent upon our grant of the withdrawal motion. **See Muzzy**, 141 A.3d at 512.

Based on the foregoing, we deny Parsons' request for a **Grazier** hearing and defer consideration of his **Bradley** claims until after we conduct an independent review of the issues identified by Collateral Appeal Counsel.

Turner/Finley Merits Review

Counsel's Claims

Collateral Appeal Counsel identified three possible issues for our review regarding the PCRA court's dismissal of Parsons' petition: (1) whether the Commonwealth violated **Brady v. Maryland**, 373 U.S. 83 (1963), by failing to provide Parsons with gunshot residue test results; (2) whether Trial Counsel rendered ineffective assistance by proceeding to trial without receiving the gunshot residue test results; and (3) whether Trial Counsel rendered ineffective assistance for failing to retain a ballistics expert to review the evidence and/or testify at trial. **See Turner/Finley** Brief at 4.

"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." **Commonwealth v. Wilson**, 273 A.3d 13, 18 (Pa. Super. 2022) (citation omitted). Appellate courts are bound by the PCRA court's credibility determinations if they are supported by the record. **Commonwealth v. Rizer**, 304 A.3d 1034, 1058 (Pa. 2023). "An appellate court cannot substitute its judgment for that of the finder of fact." **Commonwealth v. Collins**, 70 A.3d 1245, 1251 (Pa. Super. 2013). "With respect to the PCRA court's legal consideration, we apply a de novo standard

of review.” ***Commonwealth v. Lopez***, 249 A.3d 993, 998 (Pa. 2021) (citation omitted).

To be eligible for relief under the PCRA under section 9543(a)(2)(i) or (ii), the petitioner must plead and prove by a preponderance of the evidence that his conviction or sentence resulted from a ***Brady*** violation or ineffective assistance of counsel, which “in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.” 42 Pa.C.S. § 9543(a)(2)(i), (ii). Additionally, a petitioner must plead and prove that the issue was not previously litigated or waived. ***Id.*** § 9543(a)(3). An issue is waived for PCRA purposes if it could have been raised earlier in the proceedings, at trial, post-trial, or on direct appeal. ***Id.*** § 9544(b).

The law governing ***Brady*** claims is well established:

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. The Supreme Court subsequently held that the duty to disclose such evidence is applicable even if there has been no request by the accused, and that the duty may encompass impeachment evidence as well as directly exculpatory evidence. Furthermore, the prosecution’s ***Brady*** obligation extends to exculpatory evidence in the files of police agencies of the same government bringing the prosecution.

The prosecution’s duty under ***Brady*** is limited as the Constitution is not violated every time the government fails or chooses not to disclose evidence that might prove helpful to the defense. Thus, there are three necessary components that demonstrate a violation of the ***Brady*** strictures: the evidence was favorable to the accused, either because it is exculpatory or

because it impeaches; the evidence was suppressed by the prosecution, either willfully or inadvertently; and prejudice ensued.

Commonwealth v. Conforti, 303 A.3d 715, 725-26 (Pa. 2023) (cleaned up).

To establish a claim of ineffective assistance of counsel, a PCRA petitioner must plead and prove, by a preponderance of evidence, that “(1) the underlying claim has arguable merit; (2) counsel had no reasonable basis for his or her action or inaction; and (3) the petitioner suffered prejudice as a result of counsel’s action or inaction. Counsel is presumed to be effective, and the burden is on the appellant to prove otherwise.” ***Commonwealth v. Felix***, 303 A.3d 816, 819 (Pa. Super. 2023) (cleaned up). “The failure to satisfy any one of the ineffectiveness prongs precludes relief.” ***Commonwealth v. Drayton***, 313 A.3d 954, 960 (Pa. 2024).

Our independent review supports Collateral Appeal Counsel’s assessment that there is no merit to a claim that Parsons’ conviction and sentence resulted from a ***Brady*** violation. The PCRA court’s legal analysis of this claim was sound and the record supports its findings. As the PCRA court found, the record reflects that only Fulton’s hands were tested for gunshot residue; responders did not test Parsons’ hands because they prioritized treating his serious injuries instead. PCRA Court Opinion, 10/27/2025, at 17-18 (citing N.T., 3/17/2021, at 241-42). Through his own motion, Parsons obtained both the right to test Fulton’s hands at the Commonwealth’s expense and exclusive access to the results unless Parsons chose to introduce them at

trial. **See** Trial Court Order, 12/14/2016, at 1. Thus, not only can Parsons not establish that the Commonwealth suppressed evidence because the evidence was available to the defense, **see Commonwealth v. Chmiel**, 30 A.3d 1111, 1130 (Pa. 2011), the record indicates that Parsons may have had access to forensic testing results that the Commonwealth did not. Furthermore, because other evidence indicated that someone in the car fired a weapon during the incident, the PCRA court correctly determined that results indicating that Fulton fired a weapon would not be material or exculpatory because it would not establish whether Parsons fired a weapon or the order in which the shots were fired. PCRA Court Opinion, 10/27/2025, at 20. Therefore, we agree with Collateral Appeal Counsel that this **Brady** claim lacks merit.

Because Parsons cannot establish the underlying **Brady** claim, the ineffective assistance of counsel claim premised Trial Counsel's failure to raise this claim necessarily fails, as counsel cannot be ineffective for failing to raise a meritless claim. **Commonwealth v. Johnson**, 139 A.3d 1257, 1272 (Pa. 2016).

As for the claim that Trial Counsel rendered ineffective assistance by failing to obtain a ballistics expert to testify or to review evidence, the PCRA court correctly determined that the claim is devoid of merit. As the PCRA court correctly found, the record indicates Trial Counsel did, in fact, consult with a ballistics expert: prior to trial, Trial Counsel hired ballistics consultant

Carl Leisinger ("Leisinger"), who billed eleven hours of work for reviewing discovery and physical evidence, consulting with Trial Counsel, and drafting a final report. **See** PCRA Court Opinion, 10/27/2025, at 20-21; Petition for Payment to Ballistics and Firearms Expert, 4/13/2017, at ¶¶ 4-5 (Trial Counsel's averment that Leisinger's work benefited Parsons greatly and was necessary for Trial Counsel's trial preparation and defense of Parsons), Exhibit B (invoice from Leisinger addressed to Trial Counsel, 4/7/2017).

Parsons' Pro Se Response

As we agree with Collateral Appeal Counsel that the claims identified lack merit, we now turn to address the claims raised in Parsons' pro se response to the **Turner/Finley** brief. First, Parsons includes a list of purported errors by Trial Counsel that PCRA Counsel and Collateral Appeal Counsel failed to raise:

- (1) failing to pursue a self-defense theory, especially considering that the detective who testified before the grand jury characterized the incident as a mutual self-defense situation;
- (2) failing to advise Parsons to plead guilty to lesser charges, including third-degree murder or manslaughter;
- (3) proceeding to trial without receiving or showing him Pena's prior criminal history or cooperation agreement for testifying against him, which prejudiced Parsons when he only learned about these things during cross examination at trial, when it was too late to accept an earlier plea offer; and
- (4) requesting reimbursement funds from the court for (a) expert witnesses who did not prepare any notes or exhibits or speak to Parsons and whom Trial Counsel did not present and (b) gunshot residue testing that was never obtained.

See Pro Se Application, 7/21/2026, at 7.

“Where a petitioner alleges multiple layers of ineffectiveness, he is required to plead and prove, by a preponderance of the evidence, each of the three prongs [of the IAC test] relevant to each layer of representation.” **Parrish**, 273 A.3d at 1004 n.11. Because counsel cannot be deemed ineffective for failure to raise a meritless claim, claims against subsequent counsel may proceed to the prejudice and reasonable basis prongs only if the first attorney did, in fact, render ineffective assistance of counsel. **Commonwealth v. Shields**, 347 A.3d 734, 744-45 (Pa. Super. 2025).

We need not delve into any of the layered claims, because Parsons does not plead any of the IAC prongs to support his contentions. By not setting forth the arguable merit, each counsel’s lack of reasonable basis for action or inaction, and how prejudice ensued, he fails to meet his burden to establish a proper layered IAC claim against any counsel. **Parrish**, 273 A.3d at 1006; **see also Commonwealth v. Bracey**, 795 A.2d 935 (Pa. 2001) (simply setting forth a claim of error with a sentence tacked on that counsel failed to raise and/or properly litigate the underlying claim is insufficient to establish that petitioner is entitled to relief).

Parsons raises three additional IAC claims specific to his collateral proceedings. Without a corresponding allegation against PCRA Counsel, Parsons first maintains that Collateral Appeal Counsel rendered ineffective assistance by “failing to file motion to amend PCRA petition with new claims.”

Pro Se Application, 7/21/2026, at 7. He also contends that PCRA Counsel and Collateral Appeal Counsel rendered ineffective assistance by failing to “perfect PCRA petition with case law in support of issues.” ***Id.*** Finally, he states both counsel failed “to consult with [him] on how to proceed with appeal,” insomuch as they did not send copies of what he refers to as an “amended petition-brief” for his review and questions. ***Id.*** Elsewhere, he refers to Collateral Appeal Counsel’s failure to respond to calls and letters and answer questions. ***Id.*** at 2. Not only does Parsons fail to develop any of these claims under the three-pronged IAC test, he does not elaborate upon what claims counsel should have added, what case law was missing from the PCRA petition, and what constitutes an “amended petition-brief” and when either counsel should have filed one.

We further observe that Collateral Appeal Counsel was appointed to represent him **after** the PCRA court had already denied his petition. Thus, other than ***Bradley*** claims, any issue raised on appeal by Collateral Appeal Counsel must relate to claims raised and preserved in the PCRA petition. As already discussed, Collateral Appeal Counsel complied with the requirements necessary to withdraw from appellate representation pursuant to ***Turner/Finley***, which is all the law requires when counsel deems an appeal from a denial of a PCRA petition to be meritless. ***See Muzzy***, 141 A.3d at 512.

Parsons' final claim is that PCRA Counsel was ineffective for failing to forward him a copy of "Judge Capuzzi's 907 letter, which would have told him his petition was already dismissed" and prevented him from effectively arguing or proving anything before the PCRA court. Pro Se Application, 7/21/2026, at 7. As discussed supra, there were deficiencies with the service of the Rule 907(1) notice of intent to dismiss and the 907(4) dismissal order. Parsons, however, does not clearly indicate what he is referencing by the term "letter" and fails to develop how PCRA Counsel's alleged failure to forward him this letter constituted ineffective assistance of counsel. Even a PCRA court's complete failure to comply with the dictates of Rule 907(1) before dismissing a petition is not automatically reversible error; the petitioner must establish that he was prejudiced by the defective procedure. ***Commonwealth v. Pridgen***, 305 A.3d 97, 102 (Pa. Super. 2023).

To the extent Parsons is insinuating that PCRA Counsel's failure to communicate the dismissal prevented him filing a timely appeal, we already have deemed this appeal to be timely because of the PCRA court's failure to notify him of his appeal rights by certified mail. To the extent Parsons seeks to assert that PCRA Counsel's failing in this regard prevented him from raising issues to thwart dismissal, he fails to identify what issues he would have raised in response to the notice. Moreover, as PCRA Counsel represented him at that time, he could not have raised any issues pro se, as it would have constituted impermissible hybrid representation. ***See Jette***, 23 A.3d at 1036. He also

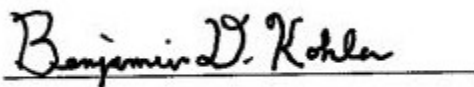
would have been confined to the scope of the amended petition, as a petitioner cannot raise new issues in response to the 907 notice without seeking to amend the petition. ***See Commonwealth v. Rigg***, 84 A.3d 1080, 1085 (Pa. Super. 2014).

Conclusion

Based on the above, we deny Parsons' application for a remand—whether immediate under ***Greer*** and ***Grazier*** or after review of his ***Bradley*** claims—and grant Collateral Appeal Counsel's petition to withdraw pursuant to ***Turner/Finley***. We further affirm the order dismissing Parsons' PCRA petition.

Application for remand denied. Application to withdraw as counsel granted. 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: 10/13/2026