

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

SAWUD DAVIS

Appellant

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No. 1504 MDA 2025

Appeal from the PCRA Order Entered October 2, 2025
In the Court of Common Pleas of Luzerne County Criminal Division at
No(s): CP-40-CR-0003752-2012

BEFORE: KUNSELMAN, J., KING, J., and STEVENS, P.J.E.*

MEMORANDUM BY KING, J.:

FILED: AUGUST 20, 2026

Appellant, Sawud Davis, appeals *pro se* from the order entered in the Luzerne County Court of Common Pleas, which dismissed his serial petition filed under the Post Conviction Relief Act ("PCRA").¹ We affirm.

The relevant facts and procedural history of this case are as follows. On December 20, 2013, Appellant entered a guilty plea to three counts of third-degree murder and one count of robbery. That same day, the court sentenced Appellant to an aggregate term of 20 to 40 years' imprisonment. Appellant did not file post-sentence motions or a notice of appeal.

On June 6, 2014, Appellant filed a *pro se* PCRA petition, which he

* Former Justice specially assigned to the Superior Court.

¹ 42 Pa.C.S.A. §§ 9541-9546.

subsequently withdrew. On September 19, 2018, Appellant filed another *pro se* PCRA petition. The court appointed counsel, who filed an amended petition on January 17, 2019. Following an evidentiary hearing, the court denied PCRA relief on March 21, 2019. This Court affirmed the order denying relief on November 8, 2019. ***See Commonwealth v. Davis***, 2019 WL 5858069 (Pa.Super. Nov. 8, 2019) (unpublished memorandum).

On June 30, 2025, Appellant filed the current *pro se* PCRA petition. In it, Appellant claimed that he learned about new evidence after receiving a letter from his brother, Shawn Hamilton, who was also the co-defendant in Appellant's case. In the letter, which was postmarked May 5, 2025, Mr. Hamilton informed Appellant about two homicide investigation reports. Based upon the reports, Appellant speculated that the victims were armed and planned to rob Mr. Hamilton at the time of the shooting.² Appellant insisted that "[p]rior to receiving this letter, [Appellant] had no way of learning about these facts." (*Pro Se PCRA Petition*, filed 6/30/25, at 4). Moreover, Appellant

² Appellant's petition included three signed declarations from Mr. Hamilton. In the first declaration, Mr. Hamilton asserted that he received information from a new witness, Mr. Ovalles, who stated the victims were carrying firearms on the day of the shooting. The victims also asked Mr. Ovalles to participate in the robbery of a man named "Shizz," but Mr. Ovalles declined. In the second declaration, Mr. Hamilton confirmed that he discovered a report detailing a statement from one of the victim's girlfriends, Ashley Bryant. Ms. Bryant purportedly told the police that one of the victims always carried a firearm, and she saw him with a firearm on the day of the shooting. In the third declaration, Mr. Hamilton maintained that another report detailed the possessions recovered from the victim's person at the hospital. (***See Pro Se PCRA Petition***, filed 6/30/25, at Attachments).

stated that Mr. Hamilton did not inform him about these facts earlier because “he was mad” at Appellant. (*Id.*)

On August 29, 2025, the court provided Pa.R.Crim.P. 907 notice of its intent to dismiss Appellant’s petition without a hearing. Appellant did not respond to the Rule 907 notice, and the court dismissed the PCRA petition on October 2, 2025. Appellant timely filed a *pro se* notice of appeal on October 29, 2025. The court did not order Appellant to file a Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal.

On appeal, Appellant raises two issues:

Did [Appellant] raise genuine issues of material fact as it relates to timeliness of his petition, thus pleading and proving title 42 Pa.C.S.A. § 9545(b)(1)(ii)?

Should the PCRA court have granted/held an evidentiary hearing on the merits?

(Appellant’s Brief at 2).

As a prefatory matter, the timeliness of a PCRA petition is a jurisdictional requisite. ***Commonwealth v. Zeigler***, 148 A.3d 849 (Pa.Super. 2016). A PCRA petition, including a second or subsequent petition, shall be filed within one year of the date the underlying judgment of sentence becomes final. 42 Pa.C.S.A. § 9545(b)(1). A judgment of sentence is final “at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.” 42 Pa.C.S.A. § 9545(b)(3).

To obtain merits review of a PCRA petition filed more than one year after

the judgment of sentence became final, the petitioner must allege and prove at least one of the three timeliness exceptions:

(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;

(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.A. § 9545(b)(1)(i)-(iii). Additionally, “[a]ny petition invoking an exception ... shall be filed within one year of the date the claim could have been presented.” 42 Pa.C.S.A. § 9545(b)(2).

Instantly, Appellant’s judgment of sentence became final in January 2014, at the expiration of his time to file a direct appeal. **See** Pa.R.A.P. 903; Pa.R.Crim.P. 720. As such, Appellant had one year thereafter to file a timely PCRA petition. Appellant’s current petition, filed in 2025, is patently untimely.

Appellant now attempts to invoke the “newly-discovered facts” exception to the PCRA’s jurisdictional time bar. Appellant asserts that he first learned about the homicide investigation reports and Mr. Hamilton’s declarations on or about May 20, 2025. Appellant states that he filed the current PCRA petition immediately after becoming aware of these new facts.

Appellant also claims that he could not have discovered these facts sooner by exercising due diligence. Appellant maintains that he has attempted to locate discovery materials “for years,” but prior counsel “all claim that they never were in possession of discovery.” (Appellant’s Brief at 11, 12). Appellant concludes that he satisfied the newly-discovered facts exception, and this Court must remand the case to the PCRA court for an evidentiary hearing. We disagree.

To meet the newly-discovered facts timeliness exception set forth in Section 9545(b)(1)(ii), a petitioner must demonstrate that “he did not know the facts upon which he based his petition and could not have learned those facts earlier by the exercise of due diligence.” ***Commonwealth v. Brown***, 111 A.3d 171, 176 (Pa.Super. 2015), *appeal denied*, 633 Pa. 761, 125 A.3d 1197 (2015). “Due diligence demands the petitioner to take reasonable steps to protect his own interests.” ***Commonwealth v. Shaw***, 217 A.3d 265, 270 (Pa.Super. 2019), *appeal denied*, ___ Pa. ___, 355 A.3d 1270 (2026). “A petitioner must explain why he could not have obtained the new fact(s) earlier with the exercise of due diligence. This rule is strictly enforced.” ***Commonwealth v. Monaco***, 996 A.2d 1076, 1080 (Pa.Super. 2010), *appeal denied*, 610 Pa. 607, 20 A.3d 1210 (2011) (internal citations omitted).

However, it does not require perfect vigilance nor punctilious care, but rather it requires reasonable efforts by a petitioner, based on the particular circumstances to uncover facts that may support a claim for collateral relief. As such, the due diligence inquiry is fact-sensitive and dependent upon the circumstances presented.

Commonwealth v. Brensinger, 218 A.3d 440, 447-48 (Pa.Super. 2019) (*en banc*) (internal citations and quotations omitted). “Additionally, the focus of this exception ‘is on the newly discovered facts, not on a newly discovered or newly willing source for previously known facts.’” ***Brown, supra*** at 176 (quoting ***Commonwealth v. Marshall***, 596 Pa. 587, 596, 947 A.2d 714, 720 (2008)).

Instantly, the PCRA court explained:

In his motion, [Appellant] alleged that he had no way of learning about these facts prior to receiving the letter from his brother. Nowhere in his motion does [Appellant] indicate what efforts were made to obtain the Luzerne County Homicide Investigation Action Reports and why any efforts he would have made would have been unsuccessful. These reports were both from July 7, 2012. He also failed to attach any declaration from Joshua Ovalles to his motion.

The letter [Appellant] received from Shawn Hamilton on May 20, 2025 provides no basis for relief. The letter contains no newly discovered facts that could not have been ascertained by the exercise of due diligence. [Appellant] failed to raise his newly discovered facts claim until eleven years after the date of his guilty plea and sentencing.

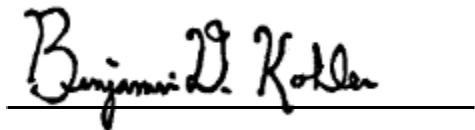
(PCRA Court Opinion, filed 12/23/25, at 6). The PCRA court concluded that Appellant failed to establish the timeliness exception, and the record supports this determination.

Here, Appellant has not established that he exercised the required due diligence in discovering the information from Mr. Hamilton and the homicide investigation reports. ***See Monaco, supra***. To the extent that the current PCRA petition and its attachments explain that Appellant could not have

obtained this information sooner because Mr. Hamilton was mad at him, Mr. Hamilton's purported grudge did not eliminate Appellant's duty to make "reasonable efforts" to uncover the facts supporting his current claims.³ **See *Brensinger, supra***. Therefore, Appellant's claim does not satisfy the newly-discovered fact exception to the PCRA time bar. **See *Brown, supra***. Consequently, Appellant's current PCRA petition remains time barred. **See *Zeigler, supra***. Accordingly, we affirm.

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: 8/20/2026

³ Although Appellant's brief provided additional explanation regarding his efforts to retrieve discovery, Appellant did not include these details in the current PCRA petition. Because Appellant did not raise these claims in the PCRA court in the first instance, the claims are waived. **See *Commonwealth v. Santiago***, 579 Pa. 46, 62, 855 A.2d 682, 691 (2004) (stating claims not raised in PCRA petition cannot be raised for first time on appeal).