

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
ROLANDO BAEZ-ROLON	:	
	:	
Appellant	:	No. 374 MDA 2026

Appeal from the PCRA Order Entered December 9, 2025
In the Court of Common Pleas of Mifflin County Criminal Division at
No(s): CP-44-CR-0000376-2021

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

MEMORANDUM BY STEVENS, P.J.E.: **FILED SEPTEMBER 28, 2026**

Appellant Roland Baez-Rolon appeals the order entered by the Court of Common Pleas of Mifflin County denying his petition pursuant to the Post Conviction Relief Act (PCRA).¹ After careful review, we affirm.

On March 31, 2023, Appellant pled guilty to third-degree murder. On April 4, 2023, the trial court sentenced Appellant to seventeen to thirty-eight years' imprisonment. Appellant did not file a post-sentence motion or a direct appeal.

On April 26, 2024, Appellant filed a *pro se* PCRA petition. On May 23, 2024, the PCRA court appointed Justin Miller, Esq., who subsequently filed an amended petition on Appellant's behalf, arguing that trial counsel was

* Former Justice specially assigned to the Superior Court.

¹ 42 Pa.C.S.A. §§ 9541-9546.

ineffective in failing to file a direct appeal or a post-sentence motion. At a July 11, 2025 hearing, Attorney Miller made an oral motion for a continuance given that Appellant advised counsel he wished to raise additional claims for relief. The trial court granted counsel ninety days to file an amended petition.

On October 30, 2025, Attorney Miller filed an application to withdraw as counsel along with a no-merit brief pursuant to ***Commonwealth v. Turner***, 518 Pa. 491, 544 A.2d 927 (1988), and ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988) (*en banc*). Attorney Miller also included a letter he sent to Appellant, notifying him of his request to withdraw, explaining why he thought each issue was meritless, and advising Appellant of his right to retain another lawyer or to proceed *pro se* in raising any points Appellant deemed worthy of consideration.

On November 6, 2025, the PCRA court issued notice of its intent to dismiss the petition without a hearing pursuant to Pa.R.Crim.P. 907; the order informed Appellant that he had twenty days to reply. Appellant did not file a reply in that time period. On December 9, 2025, the PCRA court entered an order dismissing the petition and granting Attorney Miller's request to withdraw. The order also indicated that Appellant was notified by certified mail, return receipt requested, of his right to appeal within thirty days.

On December 15, 2025, Appellant filed a reply to counsel's motion to withdraw. On January 12, 2026, Appellant filed a motion for an extension to file a notice of appeal. On February 11, 2026, the PCRA court denied

Appellant's request for an extension to file an appeal. On March 3, 2026, Appellant filed a notice of appeal.

As an initial matter, we must first determine whether this appeal is properly before this Court. The PCRA court asserts that this appeal must be dismissed as untimely as Appellant failed to file a notice of appeal within thirty days of the PCRA court's December 9, 2025 order dismissing his petition. **See** Pa.R.A.P. 903 ("[e]xcept as otherwise prescribed by this rule, 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").

However, upon review of the certified record, we note that the time period for Appellant to file an appeal never began to run as the docket entry for the PCRA court's December 9, 2025 dismissal order does not contain a notation that the order was served on Appellant. Our rules of criminal procedure require that the clerk of courts shall promptly serve an order on each party's attorney or the party if unrepresented; the criminal docket entries shall contain, inter alia, "the date of service of the order or court notice." Pa.R.Crim.P. 114(B)-(C).

In similar circumstances, this Court has declined to quash an appeal filed more than thirty days after the entry of an order when the trial court docket in a criminal case does not indicate service on a party or the date of service of that order. **Commonwealth v. Midgley**, 289 A.3d 1111, 1117 (Pa. Super. 2023). In such case, this Court treats the appeal as timely as the time period for filing an appeal never started to run. **Id. See also**

Commonwealth v. Hess, 570 Pa. 610, 810 A.2d 1249, 1253 (2002) (noting that Rule 114's language leaves no question that trial court clerk's obligations regarding docket entries are not discretionary).

As the docket in this case does not contain a notation indicating that Appellant was served with the dismissal order or the date of service, we will treat Appellant's subsequent notice of appeal as timely filed.

However, we begin by noting that Appellant's brief fails to comply with our rules of appellate procedure. Appellant has failed to set forth a statement of questions involved to identify the claims he wishes to present to this Court. Pennsylvania Rule of Appellate Procedure 2116 requires an appellant to include a "statement of questions involved" section in his or her appellate brief, providing in relevant part:

Rule 2116. Statement of Questions Involved.

(a) *General rule.*—The statement of the questions involved must state concisely the issues to be resolved, expressed in the terms and circumstances of the case but without unnecessary detail. The statement will be deemed to include every subsidiary question fairly comprised therein. **No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby.** Each question shall be followed by an answer stating simply whether the court or government unit agreed, disagreed, did not answer, or did not address the question. If a qualified answer was given to the question, appellant shall indicate the nature of the qualification, or if the question was not answered or addressed and the record shows the reason for such failure, the reason shall be stated briefly in each instance without quoting the court or government unit below.

Pa.R.A.P. 2116 (emphasis added).

This Court has held that an appellant's failure to include issues in a "statement of questions involved" portion of the appellate brief, results in waiver of the appellate issues. ***Interest of: J.R.R.***, 229 A.3d 8 (Pa. Super. 2020) (holding that any issue not set forth in or suggested by an appellate brief's statement of questions involved is deemed waived); ***Krebs v. United Refining Co.***, 893 A.2d 776, 797 (Pa. Super. 2006) (stating that we will not ordinarily consider any issue if it has not been set forth in or suggested by an appellate brief's statement of questions involved and concise statement). As Appellant failed to include a statement of questions involved in his appellate brief, he has waived all of his issues for review.

Even if we were to overlook Appellant's failure to list his issues in a statement of questions involved section in his appellate brief, Appellant raises at least fifteen new claims of the ineffectiveness of trial counsel, none of which were raised before the PCRA court. Appellant does not raise any challenges to the effectiveness of PCRA counsel.

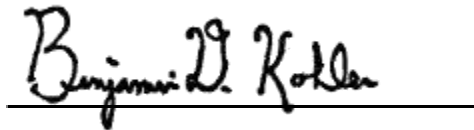
"Claims not raised in the PCRA court are waived and cannot be raised for the first time on appeal." ***Commonwealth v. Edmiston***, 578 Pa. 284, 294, 851 A.2d 883, 889 (2004); *see also* Pa.R.A.P. 302(a). Our Supreme Court has cautioned that "[p]ermitting a PCRA petitioner to append new claims to the appeal already on review would wrongly subvert the time limitation and serial petition restrictions of the PCRA." ***Id.*** (quoting ***Commonwealth v. Bond***, 572 Pa. 588, 819 A.2d 33, 52 (2002)). As such, "[t]he proper vehicle for raising new claims is not on PCRA appeal, but rather in a subsequent PCRA

petition, should appellant be able to satisfy the statutory restrictions on such serial filings.” **Edmiston**, 578 Pa. at 294, 851 A.2d at 889.²

As such, we conclude that Appellant has failed to properly preserve any issue for our review on appeal. Accordingly, we affirm the PCRA court’s order dismissing Appellant’s 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: 09/28/2026

² We acknowledge that in **Commonwealth v. Bradley**, 669 Pa. 107, 261 A.3d 381 (2021), our Supreme Court held: “[A] PCRA petitioner may, after a PCRA court denies relief, and after obtaining new counsel or acting *pro se*, raise claims of PCRA counsel's ineffectiveness at the first opportunity to do so, even if on appeal.” **Id.** at 141, 261 A.3d at 401 (footnote omitted).

However, in this case, Appellant only challenges trial counsel's representation. Appellant has neither raised a claim of PCRA Counsel's ineffectiveness nor asserted a layered claim of ineffectiveness. As such, the holding from **Bradley** is inapplicable to this case.