

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	No. 47-CR-1998
	:	
MYLES RAMZEE,	:	
	:	
Defendant	:	

Gary F. Dobias, Esquire Assistant District Attorney	Counsel for the Commonwealth
Myles Ramzee	Pro Se

MEMORANDUM OPINION

Serfass, J. - October 1, 2026

Myles Ramzee (hereinafter "Defendant"), has taken this appeal from the Order of Court entered on July 21, 2026, denying his "Amended Post-Conviction Relief Act Petition". We file the following Memorandum Opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a) and recommend that the aforesaid Order of Court be affirmed for the reasons set forth hereinafter.

FACTUAL AND PROCEDURAL BACKGROUND

The facts surrounding the murder of Tyrone Hill, a/k/a Karran Harrington a/k/a Carona, when viewed most favorably to the Commonwealth as verdict winner, find their genesis in turf wars

between drug dealers.¹ Five individuals were charged with the Murder of Carona:

1. Defendant;
2. Kaquwan Milligan a/k/a Footy;
3. Dennis Boney a/k/a Bunny;
4. Cetewayo Frails a/k/a Cease; and
5. Verna Russman.

During 1997, the prosecution's primary witness, Verna Russman, was a crack cocaine addict, selling drugs for Defendant and Anthony Cabey a/k/a V.A. N.T., 3/11/99, pp. 136-141. The drugs were sold primarily in Monroe County, Id., and generated approximately ten thousand dollars (\$10,000.00) per week, which was shared by Defendant, V.A. and the others involved in the drug trade, including Footy, Cease and Bunny. Id. at 164. For her part, Verna received a place to stay and crack cocaine to support her habit. Id. at 164-165.

In the spring of 1997, Verna began selling drugs for Terrell Owens a/k/a Lite, whom Defendant had brought into the drug operation after V.A.'s arrest and incarceration. Id. at 139-140; N.T., 3/17/99, pp. 685-687. In October of 1997, Lite planned to leave the state and brought in Carona as his replacement. N.T.,

¹ Reference to the trial transcripts is to the original first three volumes filed on April 20, 1999 and the amended remaining volumes, filed on July 26, 1999. The amendments to Volumes IV through VII were made due to a problem with page numbering and in no way changed the content of these volumes.

3/11/99, pp. 141-142. Defendant admitted his involvement in the drug sales, but claimed to have quit the operation prior to the murder and, thus, denied knowing or killing Carona. N.T., 3/17/99, pp. 685-693.

On Saturday October 25, 1997, the day before the murder, Verna and Footy spent the day selling drugs in Monroe County, where they eventually met with Cease, Defendant and Bunny. N.T., 3/11/99, pp. 44, 147-150; N.T., 3/12/99, pp. 332-333. During the visit, Verna smoked crack cocaine and listened to Defendant, Cease, Bunny and Footy plan to rob Carona of his money and drugs in order to cut into his drug territory. Id. at 150-151.

Thereafter, Verna and Footy returned to their apartment in Palmerton, Carbon County, which they shared with several people, including Lite and Carona. Id. at 141-142. She and Carona then bagged drugs he had purchased earlier that day. Id. at 44, 152. Later, Verna took Carona's vehicle to sell more drugs, while Footy remained in Palmerton. Id. at 142, 153.

During her trip, Verna was paged to bring Cease, Defendant and Bunny to the Palmerton apartment to rob Carona as planned. Id. at 172. The group arrived in two vehicles in the early morning hours of October 26, 1997. Id. at 154-156, 177. Verna roused Carona, telling him she needed an eight ball to sell. Id. at 156. Bunny sat down to play a video game while Cease stood guard by the

door. Id. at 157-158. Defendant greeted Carona and then exited the room for a few seconds. Id. at 157. Upon returning, Defendant walked up behind Carona, who was leaning down to retrieve his clothes, and shot him in the back of the head. Id. As Carona started to fall, Cease pushed him backward, causing him to fall face up on the floor. Id. Cease and Defendant then rifled through Carona's pockets and stole his drugs. Id. at 159.

In the meantime, Footy dragged an upset Verna from the room, while all four men appeared calm. Id. When allowed to return, Verna saw Carona's body covered with blankets on the floor. Id. at 160. Defendant then ordered Verna to drive Carona's car, while Cease, Footy and Bunny followed in another vehicle. Id. at 160-161. They eventually left Verna at an apartment in Monroe County. Id. at 162; N.T., 3/12/99, pp. 336-339.

The crime scene was discovered by the landlord on the morning of the murder and was consistent with Verna's description. Id. at 100-106. A subsequent police investigation and autopsy revealed that Carona died of a gunshot wound to the back of his head, consistent with the victim being in a bent over position. Id. at 52, 82-86. Carona's vehicle was eventually found in Brooklyn, New York, containing microscopic hairs similar to those of Bunny. N.T., 3/12/99, pp. 393-397; N.T., 3/16/99, pp. 564-571.

The day following the murder, Verna contacted the police to tell them about the killing. She was subsequently arrested. N.T., 3/11/99, p. 164. At the time of trial, Verna had been in jail for approximately fifteen (15) months, charged with the same crimes as her co-defendants. Id. at 134, 163. No promises had been made in exchange for her testimony. Id. at 163. She testified because she believed the killing should not have occurred and the truth needed to be told. Id.

On November 19, 1997, the police arrived at Defendant's Brooklyn residence to execute a warrant for his arrest. N.T., 3/17/99, pp. 643-645. After repeatedly knocking on the apartment door and hearing movement inside, an officer announced that he was a police officer with a warrant. Id. at 646-647. Defendant eventually opened the door, but when asked his identity, he gave the name of McCormick and a false date of birth. Id. at 649-650. Defendant was then arrested, as the officer was able to surmise that the individual was actually Defendant based upon the address, a matching description and Defendant's inability to spell the alias. Id. at 650-651. On December 2, 1997, Defendant was transported to Pennsylvania to face the charges of First Degree Murder, Robbery, Aggravated Assault and Criminal Conspiracy.

Defendant asserted an alibi defense, indicating that he had spent the entire weekend of October 25 and 26, 1997 with friends

and family in Brooklyn, New York. N.T., 3/17/99, pp. 664-670, 676; N.T., 3/18/99, pp. 715-716, 725-727, 730-733, 738-744. He further claimed he had not been in Pennsylvania during the entire month of October 1997. N.T., 3/17/99, pp. 684-685.

The prosecution presented Verna's testimony placing Defendant at the scene of the crime. Additionally, five other witnesses placed him in Pennsylvania, in an adjacent county, on the day the conspiracy developed and/or the day of the murder, including: Rebecca Hoffman, N.T., 3/16/99, pp. 331-339; Anthony Bennett, Id. at 349-348; Stella Russman, Id. at 375-378; Lykette Bennett, N.T., 3/16/99, 490-495; and Defendant's friend, Kadius Murdaugh a/k/a Soup. Id. at 498-507.

On March 19, 1999, following a six-day jury trial, Defendant was found guilty of First Degree Murder, Robbery, Aggravated Assault and Criminal Conspiracy. On May 17, 1999, Defendant was sentenced to life imprisonment on the First Degree Murder charge and to one-hundred-fifty (150) months minimum and three-hundred (300) months maximum, consecutive to the life sentence, on the Robbery and Criminal Conspiracy charges. The Aggravated Assault charge merged with the Murder charge for purposes of sentencing. Defendant's direct appeal of his conviction to the Superior Court of Pennsylvania was denied as was his Petition for Allowance of Appeal filed with the Supreme Court of Pennsylvania.

On June 18, 2001, Defendant filed his first Post Conviction Relief Act (PCRA) Petition, which was amended on June 5, 2002. On April 14, 2003, the Honorable Richard W. Webb issued an Order and Opinion denying and dismissing Defendant's PCRA Petition. The Pennsylvania Superior Court affirmed the denial of Defendant's petition on January 12, 2004 and, on December 22, 2004, the Supreme Court of Pennsylvania denied Defendant's Petition for Allowance of Appeal concerning his first PCRA Petition.

On February 7, 2005, Defendant filed a second PCRA Petition, *pro se*. On February 14, 2005, Judge Webb dismissed and denied Defendant's second petition. Defendant subsequently filed a timely appeal of Judge Webb's dismissal and denial to the Superior Court of Pennsylvania. On November 14, 2005, the Superior Court affirmed the denial of Defendant's second PCRA Petition. Defendant then filed a Petition for Writ of Habeas Corpus in the United States District Court for the Middle District of Pennsylvania on May 20, 2005. Defendant's Habeas Corpus Petition was denied on December 20, 2006, as was a Certificate of Appealability. Defendant then filed an appeal with the United States Court of Appeals for the Third Circuit, which was denied on July 20, 2007.

On August 3, 2010, Defendant filed his third PCRA Petition, which was denied by Judge Webb on April 12, 2011. On December 5, 2011, the Superior Court of Pennsylvania affirmed Judge Webb's

denial of Defendant's third PCRA Petition. On May 30, 2012, the Supreme Court of Pennsylvania denied Defendant's Petition for Allowance of Appeal Nunc Pro Tunc.

On March 19, 2012, while Defendant's Petition for Allowance of Appeal Nunc Pro Tunc was pending, Defendant filed a "Notice of Appeal." On March 29, 2012, we entered an Order treating the Notice of Appeal as Defendant's fourth PCRA Petition. On April 11, 2012, we dismissed the same as premature because of Defendant's pending matter before the Supreme Court of Pennsylvania. On April 12, 2012, Defendant filed his fifth PCRA Petition. On April 19, 2012, we issued a Notice of Intent to Dismiss Defendant's PCRA Petition. Pursuant to that notice, we dismissed Defendant's fifth PCRA Petition on May 31, 2012.

On May 21, 2012, Defendant filed what he titled "A Petition for Writ of Habeas Corpus." On June 12, 2012, we issued an Order treating Defendant's Habeas Corpus Petition as a PCRA Petition and appointed Michael P. Gough, Esquire, as Defendant's counsel. Attorney Gough was directed to either file a letter indicating that the PCRA Petition was non-meritorious or to file an amended petition raising all meritorious claims.

On August 30, 2012, Defendant, through Attorney Gough, filed a "First Amended Petition for Post-Conviction Relief." On November 20, 2012, the Commonwealth filed its Answer to Defendant's

petition, titled "Commonwealth's Answer to Defendant's Amended Sixth Petition for Post-Conviction Collateral Relief." On July 17, 2014, Defendant filed a Praecipe for Argument with respect to his "First Amended Petition for Post-Conviction Relief." On July 22, 2014, we issued an Order scheduling oral argument for September 19, 2014.

After consideration of Defendant's "First Amended Petition for Post-Conviction Relief," the Commonwealth's Answer thereto, review of the parties' briefs, and following oral argument thereon, we issued our Order of Court dated November 26, 2014 denying Defendant's sixth PCRA petition.

On December 31, 2014, Defendant appealed our PCRA Denial Order of November 26, 2014. We filed a Memorandum Opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a) on February 12, 2015, recommending that Defendant's appeal be denied and that our November 26, 2014 Order denying Defendant's "First Amended Petition for Post-Conviction Relief" be affirmed. The Superior Court of Pennsylvania adopted this recommendation on August 12, 2015, thereby affirming our November 26, 2014 Order and dismissing Defendant's sixth PCRA petition. A Petition for Allowance of Appeal was denied by the Supreme Court of Pennsylvania on December 22, 2015.

On March 23, 2016, Defendant filed his seventh Petition for Post-Conviction Collateral Relief. The next day, we appointed Robert S. Frycklund, Esquire, as PCRA counsel to represent the defendant. Attorney Frycklund reviewed the case record, determined Defendant's claim to be meritless, and submitted a "no merit" letter pursuant to Commonwealth v. Turner, 544 A.2d 927 (Pa. 1988), and Commonwealth v. Finley, 550 A.2d 230 (Pa. Super. 1988).

On May 11, 2016, Defendant filed an amendment to his Petition for Post-Conviction Collateral Relief. On July 27, 2016, this Court provided Defendant with a notice of intent to dismiss his PCRA petition without a hearing pursuant to Pennsylvania Rule of Criminal Procedure 907. On August 1, 2016, Defendant filed what he titled, a "Motion in Response to Counsel's No Merit Letter". After reviewing Defendant's PCRA Petition and Attorney Frycklund's Turner-Finley letter, we denied and dismissed Defendant's seventh Petition for Post-Conviction Collateral Relief on September 14, 2016.

Defendant filed an "Application for Certificate of Appealability" on September 28, 2016, and a Notice of Appeal on October 5, 2016. Via Order dated October 17, 2016, we directed Defendant to file a concise statement of matters complained of on appeal pursuant to Pennsylvania Rule of Appellate Procedure 1925(b). Here we note that Defendant neither filed nor served upon

the undersigned a concise statement pursuant to our Order. However, in section E(2) of the "Superior Court of Pennsylvania Criminal Docketing Statement" as filed in the Office of the Carbon County Clerk of Court on November 4, 2016, Defendant listed two (2) issues to be raised on appeal.

On December 17, 2016, we filed a Memorandum Opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a), recommending that Defendant's appeal be denied and that our September 14, 2016 Order denying Defendant's seventh Petition for Post-Conviction Collateral Relief be affirmed. The Superior Court of Pennsylvania adopted this recommendation on May 2, 2017, thereby affirming our September 14, 2016 PCRA Denial Order. A Petition for Allowance of Appeal was denied by the Supreme Court of Pennsylvania on December 13, 2017.

On August 20, 2021, Defendant filed his eighth Petition for Post-Conviction Collateral Relief. Before this Court could address Defendant's eighth PCRA Petition, Defendant filed a "Post-sentence Motion - Common Law Remedy Motion to Modify Sentence, Nunc Pro Tunc" on January 3, 2022. Therein, Defendant sought to modify his sentence to a thirty (30) to sixty (60) year sentence. The next day, we issued a rule upon the Commonwealth to show cause as to why Defendant's Motion to Modify Sentence should not be granted.

On January 20, 2022, the Commonwealth filed their response to our rule, and the matter was taken under advisement.

On March 21, 2022, Defendant filed a "Motion for Grant of Leave to Amend Post-Conviction Relief Act Petition" and an "Amended Post-Conviction Relief Act Petition". On May 13, 2023, we entered an Order denying and dismissing Defendant's "Post-Sentence Motion - Common Law Remedy Motion to Modify Sentence, Nunc Pro Tunc". On August 8, 2024, Defendant filed a "Motion to Compel and Production of Homicide and District Attorney Files". We issued a rule upon the Commonwealth on August 9, 2024, and on September 3, 2024, the Commonwealth filed their Answer in opposition to Defendant's Motion to Compel. Defendant's "Motion to Compel and Production of Homicide and District Attorney Files" was denied via Order dated December 16, 2025.

On October 20, 2025, this Court issued a Notice of Intent to Dismiss Defendant's eighth PCRA Petition without a hearing. On November 11, 2025, Defendant filed a "Response to 907 Notice of Intent to Dismiss". Therein, Defendant requested this Court grant him leave to file an amended petition. On December 3, 2025, we issued an Order which granted Defendant's request to file an amended petition. On March 6, 2026, Defendant filed his Amended PCRA Petition. A rule was issued upon the Commonwealth to show cause as to why Defendant's Amended PCRA Petition should not be

granted. The Commonwealth filed their Answer and Motion to Dismiss on April 27, 2026. On June 10, 2026, we issued a Notice of Intent to Dismiss Defendant's Amended PCRA Petition without a hearing. Pursuant to that notice, we dismissed Defendant's Amended PCRA Petition on July 21, 2026.

Defendant filed a "Notice of Appeal" and a "Concise Statement of Errors" on August 3, 2026. For procedural clarity, we issued an Order on August 4, 2026, directing Defendant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). On August 20, 2026, Defendant filed a second "Concise Statement of the Errors Complained of on Appeal" in compliance with our 1925(b) Order.

ISSUES

In his concise statements, Appellant raises the following issues for appellate review:

1. Whether we erred in dismissing Defendant's petition because the Court's findings were not supported by the record and were not free of legal error;
2. Whether we violated Defendant's State and Federal Constitutional rights and committed an abuse of discretion where Defendant's PCRA filing was dismissed without appointment of counsel and the conducting of an evidentiary hearing;

3. Whether Defendant filed a timely pro se second/subsequent PCRA petition, where the petition falls within the exception of 42 Pa.C.S.A. §9545(b)(1)(ii) & 9545(b)(2);
4. Whether it is a miscarriage of justice when a claim of PCRA counsel's ineffectiveness is raised in Defendant's initial PCRA petition, and the Court only addresses a subsequent petition raising the same as untimely;
5. Whether it is a miscarriage of justice when a petitioner raises a Brady violation due to the Commonwealth's failure to disclose a plea agreement made with a testifying co-defendant, and said co-defendant's public defender admits to non-testifying co-defendant's attorney that a deal was discussed, granting an evidentiary hearing to the non-testifying co-defendant and not petition on this after and newly discovered evidence; and
6. Whether the initial PCRA Court and subsequent Appellate Courts erroneously denied Defendant a full and fair evidentiary hearing, when trial counsel was not called to the evidentiary hearing to establish the record on Defendant's ineffective assistance of counsel claims and faulted Defendant for trial counsel's absence.

DISCUSSION

Issues One through Three:

In his first issue, Defendant contends that our decision to dismiss his petition was not supported by the record and was not free from legal error. In his second issue, Defendant contends that his constitutional rights were violated when we dismissed his eighth PCRA Petition without first appointing counsel and conducting an evidentiary hearing. In his third issue, Defendant contends that his petition falls within the timeliness exception found in 42 Pa.C.S.A. §9545(b)(1)(ii). We note however, that in his March 3, 2026, "Amended Post-Conviction Relief Act Petition", Defendant invoked the timeliness exception found at 42 Pa.C.S.A. §9545(b)(1)(ii). We will address issues one through three together, as the timeliness of Defendant's petition is pertinent to all.

Pennsylvania Rule of Criminal Procedure 904 provides that counsel will be appointed for a defendant's first PCRA petition. Pa.R.Crim.P. 904(c). Rule 904 further provides that counsel for a second or subsequent PCRA petition is only appointed when the judge determines an evidentiary hearing is necessary. Pa.R.Crim.P. 904(d). We note that "[t]here is no absolute right to an evidentiary hearing on a [PCRA] petition". Commonwealth. v. McCready, 295 A.3d 292, 298 (Pa. Super. 2023) (citations omitted).

Pennsylvania Rule of Criminal Procedure 907 provides that the judge may dismiss the defendant's petition without a hearing if, after reviewing the petition, the Commonwealth's answer thereto, and any other matters of record relating to the defendant's claims, "the judge is satisfied from this review that there are no genuine issues concerning any material fact and that the defendant is not entitled to post-conviction collateral relief, and no purpose would be served by any further proceedings". Pa. R. Crim. P. 907(1).

"Pennsylvania law makes clear no court has jurisdiction to hear an untimely PCRA petition." Commonwealth. v. Allison, 235 A.3d 359, 362 (Pa. Super. 2020). To be timely, a PCRA petition, including any subsequent petitions, must be filed within one year of the date the judgment of sentence becomes final. 42 Pa.C.S.A. § 9545(b)(1). A defendant can overcome the one-year deadline if he/she can prove that:

- (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).

Defendant's eighth Amended PCRA Petition is facially untimely. His sentence became final on February 12, 2001. Therefore, he had until February 12, 2002, one year from that date, to file a first or any subsequent PCRA petition. See generally 42 Pa.C.S.A. §9545(b)(3). In arguing that he validly invoked an exception to the PCRA's one-year time-bar, Defendant cites to our Supreme Court's decision in Commonwealth v. Bradley, 261 A.3d 381 (Pa. 2021). Specifically, Defendant maintains that Bradley triggers the "new constitutional right exception" set forth at 42 Pa.C.S.A. §9545(b)(1)(iii). Bradley, however, did not announce a new constitutional right, much less one applicable retroactively. Commonwealth v. Ridgeway, 321, A.3d 931 (Pa.Super. 2024) (unpublished opinion). Rather, Bradley is properly understood as a reassessment of appellate procedure in cases involving claims

for collateral relief. It is not, as section 9545(b)(1)(iii) requires, a decision by the Pennsylvania Supreme Court which recognizes a new and retroactive constitutional right outside the permissible filing period provided under the PCRA. Commonwealth v. Dixon, 290 A.3d 702 (Pa.Super. 2022) (unpublished opinion). Moreover, the Pennsylvania Superior Court has expressly held that “[n]othing in Bradley creates a right to file a second PCRA petition outside the PCRA’s one-year time limit as a method of raising ineffectiveness of PCRA counsel or permits recognition of such a right”. Commonwealth v. Stahl, 292 A.3d 1130, 1136 (Pa.Super. 2023). See also Commonwealth v. Felix, 358 A.3d 644 (Pa. Super. 2026) (unpublished opinion), reargument denied (June 11, 2026); Commonwealth v. Laird, 331 A.3d 579, 598 (Pa. 2025); Commonwealth v. Ellison, 341 A.3d 82 (Pa.Super. 2025) (unpublished opinion); Commonwealth v. Edmondson, 315 A.3d 109 (Pa.Super. 2024) (unpublished opinion); Commonwealth v. Morton, 292 A.3d 1075 (Pa.Super. 2023) (unpublished opinion); Commonwealth v. Johnson, 293 A.3d 630 (Pa.Super. 2023) (unpublished opinion); and commonwealth v. Babinger, 301 A.3d 90 (Pa.Super. 2023) (unpublished opinion).

Again, we note that Defendant’s sentence became final on February 12, 2001, and, therefore, he had until February 12, 2002 to timely file a PCRA petition. Our Supreme Court has consistently

rejected "various theories devised to avoid the effects of the [PCRA's] one-year time limitation [.]'" Commonwealth v. Robinson, 837 A.2d 1157, 1157 (Pa. 2003), citing Commonwealth v. Baroni, 827 A.2d 419 (Pa.2003). The instant amended petition was filed on March 26, 2026, more than twenty-five (25) years after Defendant's sentence became final. As Defendant's "Amended Post-Conviction Relief Petition" is untimely and does not fall into any timeliness exception, we lack jurisdiction to consider it. Therefore, there was no error in dismissing Defendant's petition without appointing counsel or conducting an evidentiary hearing.

Issue Four:

Defendant filed his first PCRA Petition on June 18, 2001. Thereafter, PCRA counsel was appointed and an Amended PCRA Petition was filed on June 3, 2002. Later, additional PCRA counsel was permitted to join, and a second Amended PCRA Petition was filed on August 9, 2002. In all three filings, Defendant raised several claims of ineffective assistance of trial counsel, and all three were denied and dismissed. In the 1925(a) Opinion addressing Defendant's appeal of the Order denying his initial PCRA filings, Judge Webb addressed all the issues raised by Defendant, including those relating to ineffective assistance of trial counsel. Consequently, we are unsure of what exactly Defendant is arguing relative to this issue.

Issue Five:

In his fifth issue, Defendant claims that the Commonwealth committed a Brady v. Maryland, 373 U.S. 83 (1963), violation. A Brady violation occurs when three elements are met: (1) the evidence at issue is favorable to the defendant, either because it is exculpatory or impeaching; (2) the evidence was suppressed by the prosecution, either willfully or inadvertently; and (3) the evidence is material. Commonwealth v. Dowling, 316 A.3d 32 (Pa. 2024), Commonwealth v. Brown, 358 A.3d 469 (Pa. 2026). Under Brady, prosecutors have an obligation to disclose "all exculpatory information material to the guilt or punishment of an accused, including evidence of an impeachment nature." Commonwealth v. Solano, 129 A.3d 1156, 1170 (Pa. 2015) (citing Commonwealth v. Spotz, 18 A.3d 244, 275-76 (Pa.2011)). The materiality requirement is satisfied when there is a reasonable probability that, had the evidence been disclosed, the outcome of the proceeding would have been different. Commonwealth v. Hannibal, 156 A.3d 197, 209 (Pa. 2016) (citations omitted).

Is it a miscarriage of justice when a petitioner raises a Brady violation due to the Commonwealth's failure to disclose a plea agreement made with a testifying co-defendant, and said co-defendant's public defender admits to non-testifying co-defendant's attorney that a

deal was discussed, granting an evidentiary hearing to the non-testifying co-defendant and not petition on this after and newly discovered evidence?

Above is an exact recitation of the issue presented by Defendant. The issue is somewhat convoluted but Defendant seems to be attempting to relitigate whether the Commonwealth committed a Brady violation by failing to disclose a cooperation agreement between the Commonwealth and co-defendant/witness Verna Russman. Defendant has raised this alleged Brady violation in the past. Specifically, the issue was raised in his first and sixth PCRA Petitions, as well as his Federal Habeas Corpus Petition. Therefore, this issue has been previously litigated and we are unable to grant relief. 42 Pa.C.S.A. §9543(a)(3). Nevertheless, we will address this issue in detail.

Defendant contends that the Commonwealth offered Russman leniency in return for her testimony. This argument is pure conjecture. Russman was never promised anything in return for her testimony which led to Defendant's conviction. At the time of trial, Russman was likewise charged with criminal homicide, conspiracy, robbery, and aggravated assault. (N.T. Vol. I, pg. 163, lns. 10-15). Russman testified that the Commonwealth made no promises to her, and she was testifying because she felt that "[t]he truth ha[d] to be told." (Id. at lns. 19-25).

On cross-examination, when Defendant's counsel asked Russman whether or not she had any conversations with the Commonwealth about leniency, she responded that she had not had any such conversations. (N.T. Vol II, pg. 257, lns. 22-25; pg. 258, ln. 1). Russman further testified that she did not believe she would receive any preferential treatment in return for her testimony. (Id. at pg. 258, lns. 2-13).

On June 3, 1999, Russman pleaded guilty to Third Degree Murder. On June 28, 1999, she was sentenced to a period of incarceration of not less than five (5) nor more than ten (10) years, which was in the mitigated range of the sentencing guidelines. At Russman's sentencing, District Attorney Dobias stated that he had met with Russman twenty (20) to twenty-five (25) times and she never "waivered from the position of wanting to cooperate and telling authorities exactly what happened on October 26th." (Russman Sentencing Transcript, pg. 15, lns. 9-14). Attorney Dobias further stated that he felt that the mitigated sentence "reflect[s] a balance between responsibility for [Russman's] actions on the 26th of October and consideration for her continual cooperation since that date." (Id. at lns. 20-24).

Defendant seems to be arguing that Attorney Dobias's statement reflects the existence of an agreement for preferential treatment at sentencing. However, at Russman's sentencing hearing,

Attorney Dobias further stated that Defendant's trial counsel "aggressively questioned Verna about what deal had been offered her and she said, none and that was the truth. No discussion whatsoever about her sentence took place prior to those trials." (Id. at lns. 15-20). In fact, Russman's mitigated sentence was based on her limited involvement in the murder and the fact that she had voluntarily offered information about the killing the from the very beginning. The Superior Court of Pennsylvania has declined to find a Brady violation with respect to alleged plea agreements when an appellant has offered nothing "besides his mere conjecture that such an arrangement existed." Commonwealth v. Tielsch, 934 A.2d 81, 88 (Pa. Super. 2007). Therefore, Defendant's fifth issue is without merit.

Issue Six:

Defendant's final claim is that he was denied a full and fair evidentiary hearing for his initial PCRA Petition. An evidentiary hearing on Defendant's first PCRA Petition and subsequent amendments thereto was held on June 16, 2002. At the hearing, Defendant's PCRA counsel, Robert Buttner, Esquire, thoroughly questioned Defendant about the alleged deficiencies in trial counsel's representation. The crux of Defendant's issue at that time was that trial counsel, Kent Watkins, Esquire, had not called several witnesses to testify on his behalf at trial. Specifically,

Defendant claimed that Attorney Watkins should have called Terrell Owens, Eric Baldwin, Judith Kehl and William Kile to testify at trial. (PCRA Transcript, pg. 3, lns. 11-18). All these individuals had provided statements to law enforcement, prior to Defendant's trial, relating to either their knowledge of Defendant or what Verna Russman had told them about the killing on October 26, 1997. (Id. At pg. 10, lns.13-17; pg. 11, lns. 22-25; pg. 12, lns. 1-2; pg. 13, lns 15-16; pg. 15, lns. 24-25; pg. 16, ln. 1; pg. 17, lns. 14-19; pg. 18, lns. 22-25; pg. 19, ln. 25; pg. 20, lns. 1-9). According to Defendant, their statements would have been beneficial to him at trial. From Defendant's testimony, it appears that his private investigator at the time of trial, Timothy Secor, was unable to locate Terrell Owens and Eric Baldwin to have them appear. (Id. at pg. 12, 17-22; pg. 16, lns. 5-10). William Kile and Judith Kehl were subpoenaed, but failed to appear at trial. (Id. at pg. 16, lns. 14-20; pg. 20, lns, 16-19). We note that at the outset of the June 16, 2002 PCRA hearing, Attorney Buttner indicated that he was also unable to locate any of the above referenced individuals. (Id. at pg. 5, lns. 4-8).

Attorney Dobias then thoroughly cross-examined Defendant regarding these statements. This cross-examination revealed that these statements, if true, would actually have been detrimental to Defendant's alibi defense and largely corroborative of Ms.

Russman's testimony and statements to police. (Id. at pg. 30-39; pg. 40, lns. 1-2). There was some discussion at the PCRA hearing about which side would call Attorney Watkins to testify. However, Attorney Watkins was never called to testify. Defendant now argues that he was denied a full and fair evidentiary hearing because Attorney Watkins never provided testimony as to why he did not call any of the above referenced individuals to testify at trial or, in the alternative, why he did not request a bench warrant and a continuance to produce the subpoenaed individuals to testify. On April 15, 2003, Judge Webb denied Defendant's first PCRA petition and the amendments thereto. In his 1925(a) Opinion filed in response to Defendant's appeal, Judge Webb provided several reasons as to why Defendant's claims regarding these purported alibi witnesses failed, regardless of whether Attorney Watkins had testified or not.

We will begin by addressing why Defendant's claim failed in regards to Terrell Owens, Eric Baldwin and William Kile. We note that while there was testimony which suggested that William Kile was served with a subpoena, Defendant did not indicate the same in his concise statement of errors complained of on appeal. Rather, Defendant claimed that only Judith Kehl was served with a subpoena. Therefore, Judge Webb addressed trial counsel's alleged ineffectiveness in regards to William Kile along with Terrell Owens

and Eric Baldwin. First, Defendant failed to provide affidavits signed by those individuals averring that each was available and willing to cooperate with Defendant's defense. Without such documentary proof, Judge Webb was unable to find ineffectiveness on the part of Attorney Watkins. See Commonwealth v. Khalil, 806 A.2d 415, 422, (Pa. Super. 2002). Second, Defendant failed to demonstrate that any of the individuals would have testified on his behalf. Defendant believed that they would have testified on his behalf because each voluntarily spoke with law enforcement about the events relating to the murder of Tyrone Hill. However, in order to find that Attorney Watkins was ineffective, Defendant would have had to provide objective proof that they would have testified on his behalf to substantiate his claims of ineffectiveness. See Commonwealth v. Brown, 767 A.2d 567 (Pa. Super. 2001). Finally, Defendant failed to explain how he was prejudiced by Attorney Watkins' failure to call any of the individuals. Judge Webb was unable to conclude that the outcome of Defendant's trial would have been different had Attorney Watkins called those witnesses because, as noted above, their testimony would have supported the Commonwealth's theory of motive and defeated Defendant's alibi defense. "Trial counsel will not be deemed ineffective for failing to assert a claim that would not have been beneficial, or for failing to interview or present

witnesses whose testimony would not have been helpful." Commonwealth v. Williams, 732 A.2d 1167, 1189 (Pa. 1999).

In regards to Judith Kehl, the only individual who Defendant indicated was subpoenaed, Defendant once again questioned Attorney Watkins' decision not to call Kehl as a witness at trial or to request a bench warrant or continuance when she failed to appear. To be successful, Defendant would have had to objectively demonstrate, *inter alia*, that Kehl's testimony would have been beneficial to his defense. See Commonwealth v. Jones, 652 A.2d 386, 389 (Pa. Super. 1995). As noted previously, the statement Kehl provided to law enforcement, which presumably would be the basis for whatever testimony she would have provided at trial, would have actually been detrimental to Defendant's alibi defense. (PCRA Transcript, pg. 39, lns. 15-25; pg. 40, lns. 1-2). Thus, Defendant failed to meet his burden in establishing Attorney Watkins' ineffectiveness in regards to Judith Kehl.

The Superior Court addressed the same issues in their January 12, 2004 decision affirming Judge Webb's April 15, 2003 denial of Defendant's first PCRA Petition. The Court determined that the proposed testimony would have "attacked Ms. Russman's credibility by hearsay and in speculative and tangential ways." Commonwealth v. Ramzee, 847 A.2d 760 (Pa. Super. 2004) (unpublished memorandum).

Defendant also takes issue with the fact that the Superior Court faulted him for not having Attorney Watkins testify at the June 16, 2002 PRCA hearing. While not specifically asserted, Defendant seems to be alleging that PCRA counsel was ineffective for failing to call trial counsel to testify at the June 16, 2002 PCRA hearing. This is a claim that Defendant had made previously, specifically in his second PCRA Petition filed on February 7, 2005. The same was dismissed as untimely by Judge Webb whose decision was affirmed by the Superior Court on November 14, 2005. The Superior Court held that courts lack jurisdiction to grant relief on the basis of untimely PCRA petitions and that Defendant did not establish that any of the statutory exceptions to the one-year time bar for filing a PCRA petition were applicable to his case.

Variations of these same issues have been raised in several different ways through the years. At trial, Defendant proceeded with an unsuccessful alibi defense. On direct appeal, Defendant objected to the impeachment of his alibi witnesses. In Defendant's first PCRA Petition, one of his claims was that his counsel was ineffective for failing to interview and subpoena Terrell Owens. In Defendant's second PCRA Petition, he claimed ineffective assistance of his PCRA counsel. In his third PCRA Petition, Defendant contended that newly-discovered evidence in the form of an affidavit of Terrell Owens would undermine the credibility of

Verna Russman and prove his innocence. Defendant is consistently pleading exceptions that do not apply. Moreover, even if an exception did apply, Defendant is raising issues that have already been raised, considered and disposed. These issues have been previously litigated and we are unable to grant relief. 42 Pa.C.S.A. §9543(a)(3).

To quote Judge Webb, "[t]he finality of the judicial process is undermined when convicted persons are able to cause the expenditure of judicial resources in the filing and consideration of repetitive post-conviction claims. For this reason, there is a one-year deadline in the PCRA." Commonwealth v. Myles Ramzee, CCP Carbon County 47 CR 1998, Memorandum Opinion, Webb, S.J., April 12, 2011. Defendant had until February 12, 2002 to file any and all post-conviction relief petitions. However, the instant PCRA petition was not filed until March 26, 2026. The Pennsylvania Supreme Court has made it abundantly clear that all petitions for post-conviction relief, including second or subsequent petitions, must be filed within one year of final judgment, unless the case fits within one of the narrow exceptions set forth in the statute. Commonwealth v. Anthony Rienzi, 827 A.2d 369 (Pa. 2003). Consequently, Defendant is time-barred from pursuing the instant PCRA petition. As a result of his extreme tardiness, it is

irrelevant if any of his other five issues have any merit, which we believe they do not.

CONCLUSION

Based upon the foregoing, we submit that Defendant's Amended PCRA petition is meritless and respectfully recommend that the instant appeal be denied, thereby affirming our Order of July 21, 2026.

BY THE COURT:

\s\ Judge Steven R. Serfass
Steven R. Serfass, J.