

APPENDIX

No. \_\_\_\_\_

*IN THE SUPREME COURT OF THE UNITED STATES*

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**In re: Steven Bleau**

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**ON PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS**  
**OR/ IN THE ALTERNATIVE**  
**COMMON LAW WRIT OF CERTIORARI**

---

**APPENDICES AND EXHIBITS OF EXONERATORY EVIDENCE**

**VOLUME I**

---

Steven Bleau, Pro Se  
SCI Dallas/ BT7478  
1000 Follies Road  
Dallas, PA 18612

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ALD-133

March 21, 2019

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 19-1448

IN RE: STEVEN BLEAU, Petitioner

Present: MCKEE, SHWARTZ and BIBAS, Circuit Judges

Submitted are:

- (1) Petitioner's application pursuant to 28 U.S.C. §§ 2244(b) to file a second or successive petition pursuant to 28 U.S.C. § 2254; and
- (2) Petitioner's motion to be relieved from the filing requirements of L.A.R. 22.5 and motion for appointment of counsel

in the above-captioned case.

Respectfully,

Clerk

ORDER

Petitioner's motion to be relieved from the filing requirements of Third Circuit L.A.R. 22.5 is granted. Petitioner's application under 28 U.S.C. § 2244 is denied. Petitioner claims that his trial counsel rendered ineffective assistance by failing to present Frank Fayz as an alibi witness at trial. Petitioner has not made a *prima facie* showing that the factual predicates for this claim (two police reports and a receipt from Fayz's store) could not reasonably have been discovered when he filed his previous habeas petition, or that the facts underlying his claim establish his innocence by clear and convincing evidence. See 28 U.S.C. § 2244(b)(2)(B). Petitioner's reliance on Reeves v. Fayette SCI, 897 F.3d 154 (3d Cir. 2018), is misplaced because Reeves concerned an initial habeas petition and did not address the § 2244 standard. Petitioner does not argue that his proposed claim relies on a new, retroactive rule of constitutional law under § 2244(b)(2)(A). Petitioner's motions for appointment of counsel and an evidentiary hearing are denied.

By the Court,

s/ Patty Shwartz  
Circuit Judge

Dated: April 12, 2019  
PDB/cc: Steven Bleau  
Nicholas J. Casenta, Jr., Esq.



A True Copy:

*Patricia S. Dodsweit*

Patricia S. Dodsweit, Clerk

\*AMENDED DLD-215

May 30, 2018

May 24, 2018

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 18-1983

In re: STEVEN BLEAU, Petitioner

Present: JORDAN, SHWARTZ and KRAUSE, Circuit Judges

Submitted are:

- (1) Petitioner's application pursuant to 28 U.S.C. § 2244 to file a second or successive 28 U.S.C. § 2254 petition;
- (2) Petitioner's motion for appointment of counsel and an evidentiary hearing;
- (3) Petitioner's motion to be relieved from the filing requirements of Third Circuit L.A.R. 22.5; and
- \*(4) Petitioner's memorandum of law in support of his application pursuant to 28 U.S.C. § 2244 and attachments filed May 25, 2018**

in the above-captioned case.

Respectfully,

Clerk

ORDER

Petitioner's motion to be relieved from the filing requirements of Third Circuit L.A.R. 22.5 is granted. Petitioner's application pursuant to 28 U.S.C. § 2244 to file a second or successive petition pursuant to 28 U.S.C. § 2254 is denied. Petitioner is required to show (1) that his claim relies on a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court; or (2) that the factual predicate for his claim could not have been discovered previously with due diligence, and that the facts, if proven and viewed in light of the evidence as a whole, would be

sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found him guilty. See 28 U.S.C. § 2244(b)(2). Although Petitioner purports to rely on newly-discovered evidence, he has not satisfied these statutory requirements. Petitioner's motion for appointment of counsel and an evidentiary hearing are denied.

By the Court,

s/Patty Shwartz  
Circuit Judge

Dated: June 7, 2018

sb/cc: Steven Bleau

Nicholas J. Casenta, Jr., Esq.



A True Copy:

*Patricia S. Dodsweit*

Patricia S. Dodsweit, Clerk

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT  
July 18, 2018

No. 18-1983

In re: STEVEN BLEAU,  
Petitioner

Present: JORDAN, SHWARTZ and KRAUSE, Circuit Judges

1. Motion filed by Petitioner Mr. Steven Bleau to Reconsider Order dated 06/07/2018.

Respectfully,  
Clerk/JK

ORDER

The foregoing motion filed by Petitioner Mr. Steven Bleau to reconsider Order dated 06/07/2018 is denied.

By the Court,

s/Patty Shwartz  
Circuit Judge

Dated: July 23, 2018

CJG/cc: Steven Bleau

Nicholas J. Casenta, Jr., Esq.

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

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

v.

STEVEN BLEAU

Appellant : No. 2232 EDA 2017

Appeal from the PCRA Order June 20, 2017  
In the Court of Common Pleas of Chester County Criminal Division at  
No(s): CP-15-CR-0000443-1988

BEFORE: GANTMAN, P.J., OLSON, J., and DUBOW, J.

MEMORANDUM BY OLSON, J.:

**FILED FEBRUARY 05, 2018**

Appellant, Steven Bleau, appeals *pro se* from the order entered on June 20, 2017, dismissing his fourth petition filed under the Post-Conviction Relief Act (PCRA), 42 Pa.C.S.A. § 9541-9546. We affirm.<sup>1</sup>

We have previously summarized the facts underlying Appellant's convictions and some of the procedural posture leading to Appellant's fourth PCRA petition. As we explained:

---

<sup>1</sup> Appellant filed a motion for permission to supplement his brief, so that he can allege some sort of unspecified "newly discovered evidence." **See** Appellant's "Motion for Leave of Court to Supplement Brief with Additional Newly Discovered Evidence" (hereinafter "Appellant's Motion"), 12/26/17, at 1. On January 22, 2018, Appellant filed an application to withdraw Appellant's Motion. We grant the application to withdraw and, therefore, do not consider the merits of Appellant's Motion.

On the morning of November 30, 1987, at approximately 10:00 a.m., the body of Mabel Toledo [("Toledo")] and that of a dying George Montgomery [("Montgomery")] were discovered by Arthur (Moe) Jackson [("Jackson")] in his home at 165 Glencrest Road, Valley Township, Chester County. Both victims had been shot[:] Toledo, four times and Montgomery, once. Montgomery later died at Brandywine Hospital.

The events which led to this bloody murder scene began November 29, 1987, when [Appellant] drove Gregory Ferguson [("Ferguson")], Toledo and Montgomery from New York City, New York, to Chester County to meet Jackson. Apparently, Montgomery had asked Ferguson for the ride, but he did not have a car. [Appellant], Ferguson's cousin, had a Buick Somerset and agreed to drive. [Appellant] and Ferguson were paid \$250.00 for driving Montgomery and Toledo to Chester County. They arrived in Coatesville at approximately 8:00 p.m. at Trina Rooks' [("Rooks")] apartment on 102 Victoria Drive, Coatesville. Jackson, Rooks' boyfriend, was alone at the apartment. Rooks arrived later.

At some point thereafter, [Appellant], Ferguson, Montgomery, Toledo, Jackson and Rooks drove around Chester County and made several stops, eventually returning to 103 Glen Crest Avenue. Jackson and Rooks then left to go to Rooks' mother's house for a sump pump to remove rain water from Jackson's basement. They returned, installed the sump pump and left at approximately 11:30 to 12 midnight. Toledo stated that she wanted to get up at 5:00 a.m. to return to New York City by 8:00 a.m. Later, at 1:30 a.m. (November 30) Montgomery telephoned his employer, Michael Strobert, in New York City and said he would not be at work on November 30, 1987.

According to Ferguson's testimony, Toledo and Montgomery took a rifle with them back to the bedroom, leaving another rifle with Ferguson and [Appellant] in the living room. [Appellant] and Ferguson sat around drinking beer and smoking cigarettes laced with cocaine. After a while, [Appellant] insisted that he wanted to get his money from Montgomery now; he was concerned he would not get paid. [Appellant] also talked of robbing Montgomery and Toledo.

Together, [Appellant] and Ferguson went to the bedroom and Ferguson knocked on the door. Montgomery came to the door and Ferguson explained that [Appellant] thought he was "getting beat" and asked if they were going to be paid. Montgomery assured them they would be paid and turned back to walk into the bedroom. At that point, [Appellant] shot Montgomery who fell forward into Ferguson. Ferguson let him down to the ground.

Ferguson ran into the bedroom and Toledo picked up the telephone answering machine in one hand and the [rifle] in the other. When Ferguson grabbed the point of the gun, Toledo struck him in the head with the answering machine. Ferguson pushed her away and [Appellant] ran up and shot Toledo in the cheek while she was [lying] across the bed. During Ferguson's struggle with Toledo, they got tangled up in the telephone cord. After [Appellant] shot her in the cheek, Toledo pleaded for her life. [Appellant] picked up Toledo's rifle and shot Toledo in the head. Ferguson ran out of the door, leaving the telephone cord trailing behind him. [Appellant] followed him out carrying one of the rifles, Montgomery's coat and Toledo's pocketbook. [Appellant] threw the rifle in the trunk, jumped in the driver's seat and began driving.

On December 9, 1988, following a jury trial, [Appellant] was convicted of two counts of first-degree murder, two counts of criminal conspiracy, and one count of robbery. [Appellant] was subsequently sentenced to an aggregate sentence of life in prison. This Court affirmed the judgment of sentence [on May 17, 1993]. **See Commonwealth v. Bleau**, 631 A.2d 210 (Pa. Super. 1993) (unpublished memorandum).

[Appellant's] first PCRA Petition was denied, and this Court affirmed the denial. **See Commonwealth v. Bleau**, 785 A.2d 1024 (Pa. Super. 2001) (unpublished memorandum), *appeal denied*, 798 A.2d 1286 (Pa. 2002). [Appellant's] second PCRA Petition was dismissed, and this Court affirmed the dismissal. **See [Commonwealth v. Bleau**, 91 A.3d 1288 (Pa. Super. 2013) (unpublished memorandum) at 1-13].

**Commonwealth v. Bleau**, 151 A.3d 1156 (Pa. Super. 2016) (unpublished memorandum) at 1-3 (internal corrections, quotations and footnote omitted) (some internal citations omitted).

On March 23, 2015, Appellant filed his third PCRA petition. The PCRA court dismissed the petition and, on May 23, 2016, this Court affirmed the PCRA court's order. ***Id.*** at 1-11.

Appellant filed the current PCRA petition (his fourth) on March 13, 2017. As the PCRA court explained, Appellant alleged the following in his fourth petition:

[within the petition, Appellant] contends that[,] approximately 30 years after his conviction, he [] recently discovered two police reports that were previously provided to his trial counsel during discovery which establish his innocence. [Appellant] further asserts that his cousin was in possession of these police reports and other legal material from [Appellant's] trial. [Appellant] claims that when his cousin died, sometime around November 27, 2016, [Appellant's] sister discovered the police reports in the cousin's apartment and made [Appellant] aware of the materials. [Appellant] asserts that the two police reports contain interviews of his friend, New York [g]rocery [s]tore owner Frank Fayz, which establish his alibi and innocence. . . . [Appellant] acknowledges in his PCRA petition that defense counsel was already in possession of the two police reports at the time of trial. . . . [Moreover, Appellant] has been acting *pro se* for the majority of the last 30 years. Through self-representation, [Appellant] [] had access to his entire [case] file[,] including the police reports and other discovery material.

PCRA Court Order, 5/4/17, at 6-7; **see also** Appellant's Fourth PCRA Petition, 3/13/17, at 3; Appellant's Amended Fourth PCRA Petition, 5/1/17, at 1-19.

On June 20, 2017, the PCRA court finally dismissed Appellant's petition and Appellant filed a timely notice of appeal. We now affirm the dismissal of Appellant's patently untimely, serial PCRA petition.

"As a general proposition, we review a denial of PCRA relief to determine whether the findings of the PCRA court are supported by the record and free of legal error." ***Commonwealth v. Eichinger***, 108 A.3d 821, 830 (Pa. 2014).

Before this Court can address the substance of Appellant's claim, we must determine if this petition is timely.

[The PCRA requires] a petitioner to file any PCRA petition within one year of the date the judgment of sentence becomes final. A judgment of sentence becomes final at the conclusion of direct review . . . or at the expiration of time for seeking review.

...

However, an untimely petition may be received when the petition alleges, and the petitioner proves, that any of the three limited exceptions to the time for filing the petition, set forth at 42 Pa.C.S.A. § 9545(b)(1)(i), (ii), and (iii), are met. A petition invoking one of these exceptions must be filed within [60] days of the date the claim could first have been presented. In order to be entitled to the exceptions to the PCRA's one-year filing deadline, the petitioner must plead and prove specific facts that demonstrate his claim was raised within the [60]-day timeframe.

***Commonwealth v. Lawson***, 90 A.3d 1, 4-5 (Pa. Super. 2014) (some internal citations omitted) (internal quotations omitted).

In the present case, the PCRA court found Appellant's petition to be untimely filed. We agree.

Appellant's judgment of sentence became final in 1993. **See** 42 Pa.C.S.A. § 9545(b)(3) ("A judgment becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States . . . , or at the expiration of time for seeking the review"). The PCRA explicitly requires that a petition be filed "within one year of the date the judgment becomes final." 42 Pa.C.S.A. § 9545(b)(1). Since Appellant filed his current petition on March 13, 2017, the current petition is patently untimely and the burden thus fell upon Appellant to plead and prove that one of the enumerated exceptions to the one-year time-bar applied to his case. **See** 42 Pa.C.S.A. § 9545(b)(1); **Commonwealth v. Perrin**, 947 A.2d 1284, 1286 (Pa. Super. 2008) (to properly invoke a statutory exception to the one-year time-bar, the PCRA demands that the petitioner properly plead and prove all required elements of the relied-upon exception).

Appellant claims to invoke the "newly-discovered facts" exception to the time-bar. This statutory exception provides:

(1) Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final, unless the petition alleges and the petitioner proves that:

...

(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[]

...

(2) Any petition invoking an exception provided in paragraph (1) shall be filed within 60 days of the date the claim could have been presented.

42 Pa.C.S.A. § 9545(b).

As our Supreme Court has explained:

subsection (b)(1)(ii) has two components, which must be alleged and proved. Namely, the petitioner must establish that: 1) "the **facts** upon which the claim was predicated were **unknown**" and (2) "could not have been ascertained by the exercise of **due diligence**." 42 Pa.C.S. § 9545(b)(1)(ii)(emphasis added). If the petitioner alleges and proves these two components, then the PCRA court has jurisdiction over the claim under this subsection.

**Commonwealth v. Bennett**, 930 A.2d 1264, 1272 (Pa. 2007) (emphasis in original).

Further, to properly invoke the newly-discovered facts exception, the petitioner is statutorily required to file his petition "within 60 days of the date the claim could have been presented." 42 Pa.C.S.A. § 9545(b). As our Supreme Court has explained, to satisfy this "60-day requirement," a petitioner must "plead and prove that the information on which he relies could not have been obtained earlier, despite the exercise of due diligence."

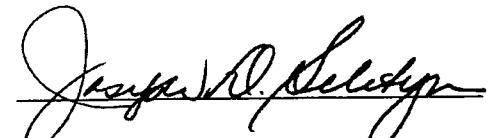
**Commonwealth v. Stokes**, 959 A.2d 306, 310-311 (Pa. 2008);  
**Commonwealth v. Breakiron**, 781 A.2d 94, 98 (Pa. 2001). Moreover, because the "60-day requirement" of section 9545(b)(2) is a statutory mandate, the requirement is "strictly enforced." **Commonwealth v. Monaco**, 996 A.2d 1076, 1080 (Pa. Super. 2010).

In the case at bar, Appellant claims that Frank Fayz's statements constitute newly-discovered facts and that Appellant first discovered the statements when his sister reviewed his case file, some 30 years after Appellant's convictions. **See** Appellant's Fourth PCRA Petition, 3/13/17, at 3. However, Appellant has not pleaded why he could not have discovered Frank Fayz's statements earlier, if he had exercised due diligence. To be sure, Appellant acknowledges that Mr. Fayz's statements were contained in two police reports and that those police reports were available to him in his case file. Therefore, we agree with the PCRA court that Appellant has not pleaded why, at some point in the past 30 years, he or his prior counsel could not have discovered the cited facts earlier with the exercise of due diligence. We conclude that Appellant failed to properly plead the newly-discovered fact exception to the PCRA's time-bar. **Commonwealth v. Monaco**, 996 A.2d 1076, 1080 (Pa. Super. 2010) ("[d]ue diligence demands that the petitioner take reasonable steps to protect his own interests. 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").

Thus, our "courts are without jurisdiction to offer [Appellant] any form of relief." **Commonwealth v. Jackson**, 30 A.3d 516, 523 (Pa. Super. 2011). We affirm the PCRA court's order, which dismissed Appellant's fourth PCRA petition without a hearing.

Appellant's Application to Withdraw Motion for Leave of Court to  
Supplement Brief granted. Order affirmed. Jurisdiction relinquished.

Judgment Entered.



Joseph D. Seletyn, Esq.  
Prothonotary

Date: 2/5/18

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS  
vs. :  
STEVEN BLEAU : CHESTER COUNTY, PENNSYLVANIA  
: CRIMINAL ACTION - PCRA  
: NO. 0443-1988

JULY 20 AM 11:44  
2017  
CLERK OF COURTS  
CHESTER COUNTY, PA.

Nicholas Casenta Jr., Esquire, Chief Deputy District Attorney for the Commonwealth  
Steven Bleau, Pro Se Defendant

ORDER

AND NOW, this 20<sup>th</sup> day of June, 2017, upon consideration Defendant's fourth Post-Conviction Relief Act ("PCRA") petition and Amendment filed on March 13, 2017 and April 26, 2017,<sup>1</sup> respectively, and the record as a whole, it is hereby ORDERED and DECREED that Defendant's Petition is DISMISSED.<sup>2</sup>

The Defendant is advised that this is a final Order disposing of his PCRA petition, and that he has thirty (30) days from the date of this Order to file an appeal to the Superior Court of Pennsylvania, with the Clerk of Courts of Chester County.

The Defendant is advised that he may proceed *pro se* or hire private counsel.

The Clerk of Courts of Chester County is ORDERED to serve a copy of this Order upon the following:

- (a) District Attorney of Chester County.
- (b) Defendant - by Certified Mail, Return Receipt Requested

BY THE COURT,

  
\_\_\_\_\_  
William P. Mahon J.

<sup>1</sup> As this is Defendant's fourth PCRA petition, he is not entitled to court appointed counsel in this matter. See Pa.R.Crim.P. 904; Commonwealth v. Albrecht, 720 A.2d 693 (Pa. 1998).

<sup>2</sup> On May 4, 2017, the Court issued a Notice of Intent to Dismiss PCRA Petition ("907 Notice"), explaining to Defendant that his petition was both untimely and failed to meet any of the enumerated exceptions to the one-year

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timeliness requirement and, as such, the Court was divested of jurisdiction over the matter. See Notice to Dismiss, 5/4/17, at 7. Consequently, the Court advised Defendant that he was not entitled to post-conviction collateral relief and that he had twenty (20) days from the date of docketing of the 907 Notice to file a response. Id. at 1-2. On May 30, 2017, filed with the Court Petitioner's Objection to the Court's Notice to Dismiss Pursuant to Pa.R.Crim.Proc. 907(1) ("Response").

Although Defendant filed of record his Response with the Clerk of Courts on May 30, 2017, he fails to conclusively identify when he delivered it to prison officials for mailing. The envelope containing the Response is postmarked May 25, 2017, thereby making Defendant's Response untimely since it was required to be filed by May 24, 2017. However, in the interest of justice, we will consider Defendant's Response as if timely filed, pursuant to the "prisoner mailbox rule." See Commonwealth v. Little, 716 A.2d 1287 (Pa. Super. 1998).

Notwithstanding the untimeliness of Defendant's Response, the Court also finds that it does not advance his claims for relief under the PCRA. Although Defendant's Response does not advance his PCRA claims, we find it necessary to briefly reiterate that that Defendant failed to exercise due diligence regarding the after-discovered evidence that is the subject of the instant PCRA petition and Amendment. In lieu of a newly fashioned yet redundant analysis concerning the due diligence requirement, we refer Defendant to the Court's 907 Notice.

After independently reviewing Defendant's Response, the Court's reasoning, as set forth in our 907 Notice, remains unchanged. We now reaffirm that Defendant's fourth PCRA petition is both untimely and fails to establish one of the enumerated exceptions to the one year requirement under the PCRA. Accordingly, it is for the same reasons articulated in the 907 Notice that we now dismiss Defendant's fourth PCRA petition and Amendment as untimely.

COMMONWEALTH OF PENNSYLVANIA

: IN THE COURT OF COMMON PLEAS

VS.

: CHESTER COUNTY, PENNSYLVANIA

STEVEN BLEAU

: CRIMINAL ACTION - PCRA

: NO. CP-15-CR-0000443-1988

Nicholas J. Casenta, Jr., Chief Deputy District Attorney  
Steven Bleau, *Pro Se* Defendant

OPINION

AND NOW, this <sup>3rd</sup> day of August, 2017, this Opinion is filed pursuant to Pa. R.A.P. 1925 and in response to Steven Bleau's ("Defendant") timely Statement of Errors Complained of on Appeal ("Statement") filed on July 26, 2017.<sup>1</sup>

This Court has previously addressed all of Defendant's appellate issues and stated our reasons for denying his fourth PCRA petition. Therefore, in lieu of a newly fashioned yet redundant analysis, we refer the Superior Court to the footnote of this Court's Notice of Intent to Dismiss Defendant's PCRA Petition, dated May 4, 2017, and our June 20, 2017 Order dismissing Defendant's Petition, in which we set forth our reasons for denying all of Defendant's claims. It is for the same reasons articulated in the aforementioned filings that we dismissed Defendant's fourth PCRA petition and Amendment as untimely.<sup>2</sup> A copy of the May 4, 2017 Notice of Intent to Dismiss and

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<sup>1</sup> Defendant is appealing from this Court's June 20, 2017 Order dismissing his fourth serial petition as untimely under the PCRA.

<sup>2</sup> Defendant filed his fourth PCRA petition on March 13, 2017. By Order, dated April 6, 2017, Defendant was granted leave of court to amend that petition. On April 26, 2017, Defendant filed an Amended PCRA petition.

April 21, 2017 Order are attached for the Superior Court's convenience as exhibits "A" and "B", respectively.

However, we find it necessary to briefly address one issue raised by Defendant in his Concise Statement. Specifically, issue 1(D) in Defendant's own words is as follows:

Did the PCRA court abuse it's [sic] discretion by denying pro se Appellant's motion for a 90 Day Extension and Funds to Hire Private Investigator to locate a critical alibi witness at the crux of his actual innocence and ineffective assistance of counsel claim?

Def.'s Statement, 7/26/17, at 1.

Initially, we deem this issue waived because Defendant did not raise it in "Petitioner's Objections to the Court's Notice of Intent to Dismiss." Even assuming arguendo that Defendant raises a cognizable issue on appeal, it lacks arguable merit and can form no successful basis for relief.

By way of brief background, Defendant filed his fourth PCRA petition on March 13, 2017. On March 27, 2017, Defendant filed an "Ex Parte Motion for Funds to Hire Private Investigator," which was denied on March 29, 2017. On April 3, 2017, Defendant filed a "Motion to Stay PCRA Proceedings [for 90 days]," which was denied on April 6, 2017. On May 1, 2017, Defendant filed a "Motion for Reconsideration of Ex Parte Motion for Funds to Hire Private Investigator and Motion to Stay Proceedings," which was denied on May 6, 2017.

As we will explain, Defendant was not entitled to the requested relief. The Court is unaware of any authority mandating the allocation of public funds so that a defendant may hire an investigator in a PCRA proceeding. Rather, the provision of public funds to hire experts or investigators to assist in the defense against criminal charges is a decision vested in the sound discretion of the court and a denial thereof will not be reversed absent an abuse of that discretion. See Commonwealth v. Carter, 643 A.2d 61, 73 (Pa. 1994); Commonwealth v. Wholaver, 989 A.2d 883, 895 (Pa. 2010); Commonwealth v. Bardo, 709 A.2d 871 (Pa. 1998).

Moreover, because a defendant is not entitled to court appointed counsel on a second or subsequent PCRA petition; it reasons that he is also not entitled to the allocation of public funding to retain an investigator on a fourth serial PCRA petition. See Pa.R.Crim.P. 904. This is especially true whereas here, Defendant failed to provide the Court with any information regarding the identity of an investigator, the qualifications of an investigator, the investigator's willingness to assist Defendant with his claim, the fee charged for the investigator's services or what subject matters are proposed for investigation. Moreover, at this stage of the proceedings, the Court is not required to allocate public funds so that Defendant may conduct discovery, in hopes of developing his PCRA claims. Consequently, Defendant's motion was properly denied.

Similarly, Defendant's motion requesting a stay of the PCRA proceedings was also properly denied. In that motion, Defendant claimed that a 90 day stay was necessary to allow the Court time to rule on his motion for funds to hire a private investigator and provide him with the time to secure additional monies needed to

locate a potential witness. However, this argument is unavailing as the Court had already denied Defendant's request for funding by Order dated March 29, 2017. Thus, Defendant's motion to stay the proceedings was moot at the time of its filing.

Additionally, we note that discovery in PCRA proceedings cannot be used as an excuse for engaging in a "fishing expedition." Commonwealth v. Lark, 746 A.2d 585, 591 (Pa. 2000). Hence, even if the Court had not previously denied Defendant's request for investigative funding, it still would not have been inclined to grant a 90 day stay in this matter. Staying the proceedings in a fourth PCRA petition to conduct further discovery would be tantamount to an impermissible fishing expedition and would only serve to further delay these proceedings. Defendant simply failed to demonstrate good cause justifying the relief sought. See Gwynedd Props., Inc. v. Bd. of Supervisors of Lower Gwynedd Twp., 635 A.2d 714, 716 n.4 (Pa. Cmwlth. Ct. 1993) (stating that a trial court has broad discretion to grant or deny a stay and this determination will not be reversed absent an abuse of discretion).

We write further only to reiterate that Defendant's fourth PCRA petition and Amendment are untimely and fails to satisfy any of the enumerated exceptions that would excuse the late filing. See 42 Pa.C.S.A. § 9545(b)(1)(i-iii). The substance of a PCRA petition is irrelevant to whether it has been timely filed. "[T]he time limitations pursuant to ... the PCRA are jurisdictional." Commonwealth v. Fahy, 737 A.2d 214, 222-23 (Pa. 1999). "[J]urisdictional time] limitations are mandatory and interpreted literally; thus, a court has no authority to extend filing periods except as the statute permits." Id. Like in the present case, "if the petition is determined to be untimely, and no exception

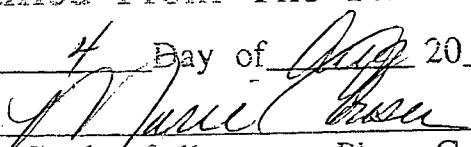
has been pled and proven, the petition must be dismissed without a hearing because Pennsylvania courts are without jurisdiction to consider the merits of the petition." Commonwealth v. Perrin, 947 A.2d 1284, 1285 (Pa. Super. 2008).

For all the reasons set forth above, it is respectfully requested that the decisions of this Court be affirmed.

BY THE COURT:



William P. Mahon, J.

Certified From The Record	
This <u>4</u> Day of <u>July</u> 20 <u>17</u>	
	
Deputy Clerk of Common Pleas Court	

COMMONWEALTH OF PENNSYLVANIA

: IN THE COURT OF COMMON PLEAS

VS.

: CHESTER COUNTY, PENNSYLVANIA

STEVEN BLEAU

: CRIMINAL ACTION - PCRA

Nicholas J. Casenta, Jr., Chief Deputy District Attorney  
Steven Bleau, *Pro Se* Defendant

: NO. CP-15-CR-0000443-1988

**NOTICE OF INTENT TO DISMISS PCRA PETITION**  
**PURSUANT TO Pa.R.Crim.P. 907(1)**

AND NOW, this 4th day of May, 2017, upon consideration of defendant's fourth (4<sup>th</sup>) Petition for Post-Conviction Relief and Amendment filed on March 13, 2017, and April 26, 2017,<sup>1</sup> respectively, the Commonwealth's Answers thereto, and after an independent review of the record, this Court finds that this Petition is untimely, that there are no genuine issues concerning any material fact, that the defendant is not entitled to post-conviction collateral relief, and that no purpose would be served by any further proceedings.<sup>1</sup> Accordingly, pursuant to Pa.R.Crim.P. 907(1), the defendant is hereby given NOTICE of the Court's intent to dismiss the defendant's PCRA petition without a hearing.

The defendant may respond to this NOTICE within twenty (20) days of the docketing of this Order. If the defendant has not responded, a subsequent Order will be entered dismissing the defendant's PCRA petition. The subsequent Order shall be a final appealable Order disposing of the defendant's PCRA petition.

If the defendant responds to this NOTICE, the Court will: either dismiss defendant's PCRA petition; or, if warranted, direct that further proceedings be held.

The Clerk of Courts of Chester County is **ORDERED** to serve a copy of this Order upon

<sup>1</sup> As this is Defendant's fourth PCRA petition, he is not entitled to court appointed counsel in this matter. See Pa.R.Crim.P. 904; Commonwealth v. Albrecht, 720 A.2d 693 (Pa. 1998).

the following:

- (a) District Attorney of Chester County.
- (b) Defendant - by Certified Mail, Return Receipt Requested.

**Certified From The Record**

This

5 Day of May 2017



Deputy Clerk of Common Pleas Court

BY THE COURT:



William P. Mahon, J.

**<sup>2</sup> FACTUAL AND PROCEDURAL HISTORY**

On December 9, 1988, following a jury trial before the Honorable Charles B. Smith, Defendant, Steven Bleau, was found guilty of two (2) counts of First Degree Murder, one (1) count of Robbery and two (2) counts of Criminal Conspiracy. At the sentencing phase of Defendant's trial, the jury was unable to agree on a verdict, thus resulting in the imposition of a life sentence. Defendant appealed his judgment of sentence. The judgment of sentence was affirmed by the Superior Court of Pennsylvania on May 17, 1993. See Commonwealth v. Steven Bleau, 631 A.2d 210 (Pa. Super. 1993). On September 24, 1993, Defendant filed a Petition for Allowance of Appeal *Nunc Pro Tunc*, with the Supreme Court of Pennsylvania. The Supreme Court of Pennsylvania denied Defendant's Petition on November 24, 1993.

Defendant filed a PCRA petition on October 28, 1994. As that was the indigent Defendant's first PCRA petition, the Court appointed Stephen Baer, Esquire, to represent Defendant in all matters pertaining to that Petition. However, Defendant filed a *pro se* Motion for Change of Counsel and Leave to Amend PCRA Petition in September of 1996. Consequently, on March 26, 1997, William R. Noll, Esquire, was appointed to represent the Defendant. Nonetheless, on June 15, 1998, Defendant once again filed a Motion for Change of Counsel. A hearing on the matter was held on July 14, 1998, at which the Honorable Juan R. Sanchez granted the Motion to Withdraw as Counsel, thus permitting the Defendant to proceed *pro se*. However, Mr. Noll was appointed as stand-by counsel to assist Defendant during the disposition of Defendant's first PCRA petition. On June 19, 2000, Judge Sanchez denied Defendant's first PCRA petition. On August 14, 2001, the Superior Court affirmed the denial of the PCRA petition. Defendant filed a Petition for Allowance of Appeal with the Supreme Court. The Petition was denied by the Supreme Court on May 7, 2002. See Commonwealth v. Steven Bleau, 798 A.2d 1286 (Pa. 2002). On October 25, 2002, Defendant filed a Petition for Writ of Habeas Corpus in the United States District Court for the Eastern District of Pennsylvania. On August 13, 2003, Magistrate Judge Peter B. Scuderi filed a Report and Recommendation which recommended denial of the Petition for Writ of Habeas Corpus. On January 26, 2004, the Honorable Mary A. McLaughlin, approved and adopted the Report and Recommendation and denied Defendant's Petition for Writ of Habeas Corpus. See Bleau v. Vaughn, 02-CV-08093. On September 20, 2004, the United States Court of Appeals for the Third Circuit denied Defendant's request for a certificate of appealability. See Bleau v. Vaughn, 04-1421.

On May 23, 2012, Defendant filed a second untimely PCRA petition. The Commonwealth was ordered to file an answer to Defendant's second PCRA petition with respect to whether summary dismissal was appropriate. The Commonwealth filed its Answer on July 31, 2012, requesting dismissal of Defendant's second PCRA petition as untimely. On August 14, 2012, the PCRA Court issued a Notice of Intent to Dismiss PCRA Petition pursuant to Pa. R. Crim. P. 907(1). On August 24, 2012, Defendant filed a document titled "Memorandum of Law for Amended PCRA Petition and Opposition to Motion to Dismiss." After considering Defendant's response, the PCRA Court dismissed Defendant's second Petition on October, 19 2012. See Order, 10/19/12. On November 20, 2012, Defendant filed a Notice of Appeal from the October 19, 2012 Order dismissing his second PCRA Petition. On

November 19, 2013, the Superior Court, agreeing that Defendant's second PCRA petition was untimely, affirmed the PCRA Court's October 19, 2012 Order, by Memorandum Opinion. See Commonwealth v. Steven Bleau, No. 3289 EDA 2012. Defendant petitioned for Allowance of Appeal with the Supreme Court of Pennsylvania, which was denied. See Commonwealth v. Bleau, 798 A.2d 1286 (Pa. 2002).

On March 23, 2015, Defendant filed a third untimely PCRA petition. On March 31, 2015, the PCRA Court ordered the Commonwealth to file an Answer with respect to whether summary dismissal was appropriate. The Commonwealth filed its Answer and Motion to Dismiss on May 2, 2015, requesting dismissal of Defendant's third PCRA petition claiming that it was untimely. On May 15, 2015, the Court agreed with the Commonwealth and filed a Notice of Intent to Dismiss. On June 9, 2015, Defendant filed a Response to the Notice. On June 25, 2015, the Court dismissed Defendant's third PCRA petition as untimely. On July 27, 2015, Defendant filed a Notice of Appeal from the June 25, 2015 Order dismissing his third PCRA Petition. On May 23, 2016, the Superior Court, agreeing that Defendant's third PCRA Petition was untimely, affirmed the PCRA Court's June 25, 2015 Order, by Memorandum Opinion. See Commonwealth v. Steven Bleau, No. 2337 EDA 2015, 151 A.3d 1156 (Pa. Super. 2016). Defendant did not file a Petition for Allowance of Appeal from the May 23, 2016 decision of the Superior Court.

On March 13, 2017, Defendant filed a fourth PCRA petition. On March 17, 2017, the PCRA Court ordered the Commonwealth to file an Answer with respect to whether summary dismissal was appropriate. On March 27, 2017, Defendant filed an "Ex Parte Motion for Funds to Hire Private Investigator". On March 29, 2017, the Court denied the "Ex Parte Motion for Funds to Hire Private Investigator". On April 3, 2017, Defendant filed a "Motion to Stay PCRA Proceedings". That same day, Defendant filed a "Motion for Leave to File an Amended PCRA Petition". On April 6, 2017, the Court denied the "Motion to Stay PCRA Proceedings" and granted the "Motion for Leave to File an Amended PCRA Petition". On April 26, 2016, Defendant filed an Amended Fourth PCRA petition. On May 1, 2017 and May 2, 2017, the Commonwealth filed its Answer to Defendant's fourth PCRA petition and Amended Fourth PCRA petition, respectively requesting dismissal of the PCRA petition and Amendment as untimely. On May 1, 2017, Defendant filed a "Motion for Recusal of Presiding Judge" and a "Motion for Reconsideration of Ex Parte Motion for Funds to Hire Private Investigator and Motion to Stay the Proceedings". On May 2, 2017, Defendant's motions for recusal and reconsideration were denied.

The following factual recitation is incorporated from the Superior Court's May 17, 1993 Opinion affirming Defendant's judgment of Sentence. On the morning of November 30, 1987, at approximately 10:00 a.m., the body of Mabel Toledo and that of a dying George Montgomery were discovered by Arthur ("Moe") Jackson in his home at 165 Glen Crest Road, Valley Township, Chester County. Both Victims had been shot; Toledo, four times and Montgomery, once. Montgomery later died at Brandywine Hospital.

The events which led to this bloody murder scene began November 29, 1987, when Defendant drove Toledo, Montgomery, and Gregory Ferguson, from New York City, New York, to Chester County to meet Moe Jackson. Apparently, Montgomery asked Ferguson for the ride, but he did not have a car. Defendant, Ferguson's cousin, had a Buick Somerset and agreed to drive. Defendant and Ferguson were to be paid \$250.00 for driving Montgomery and Toledo to Chester County. The group arrived in Coatesville at approximately 8:00 p.m. at Trina Rooks' apartment on 102 Victoria Drive, Coatesville. Moe Jackson, Ms. Rooks' boyfriend, was alone at the apartment. Rooks arrived home later.

At some point, thereafter, Defendant, Ferguson, Montgomery, Toledo, Moe Jackson and Rooks drove around Chester County and made several stops, eventually returning to 103 Glen Crest Avenue. Moe Jackson and Rooks then left to go to Rooks' mother's house for a sump pump to remove rain water from Jackson's basement. They returned, installed the sump pump and left at approximately 11:30 to 12 midnight. Toledo stated that she wanted to get up at 5:00 a.m. to return to New York City by 8:00 a.m. Later, at 1:30 a.m. (November 30, 1987) Montgomery telephoned his employer, Michael Strobert, in New York City, and said he would not be at work that day.

According to Ferguson's testimony, Toledo and Montgomery took a rifle with them back to the bedroom, leaving another rifle with Ferguson and Defendant in the living room. Defendant and Ferguson sat around drinking

beer and smoking cigarettes laced with cocaine. After a while, Defendant insisted that he now wanted to get his money for driving from Montgomery as he was concerned he would not get paid. Defendant also talked about robbing Montgomery and Toledo. Together, Defendant and Ferguson went to the bedroom and Ferguson knocked on the door. Montgomery came to the door and Ferguson explained that Defendant thought he was "getting beat" and asked if they were going to be paid. Montgomery assured them they would be paid and turned back to walk into the bedroom. At that point, Defendant shot Montgomery who fell forward into Ferguson. Ferguson let him slide down to the ground.

Ferguson ran into the bedroom and Toledo picked up the telephone answering machine in one hand and the rifle in the other. When Ferguson grabbed the point of the gun, Toledo struck him in the head with the answering machine. Ferguson pushed her away and Defendant ran up and shot Toledo in the cheek while she was lying across the bed. During Ferguson's struggle with Toledo, they got tangled up in the telephone cord. After Defendant shot her in the cheek, Toledo pleaded for her life. Defendant picked up Toledo's rifle and shot Toledo in the head. Ferguson ran out the door leaving the telephone cord trailing behind him. Defendant followed him out carrying one of the rifles, Montgomery's coat, and Toledo's pocketbook. Defendant threw the rifle in the trunk of the Buick, jumped in the driver's seat, and began driving.

## DISCUSSION

We now independently review Defendant's fourth PCRA Petition, the Commonwealth's Answer thereto and all matters of record to determine whether the PCRA petition should be dismissed. In considering the instant Petition, the Court agrees with the Commonwealth and finds that Defendant's attempt at post-conviction relief is untimely and fails to establish any of the three recognized exceptions to the one-year time filing requirement.

Eligibility for relief under the PCRA is dependent upon the petitioner currently serving a sentence of imprisonment, probation, or parole for the crime. 42 Pa.C.S.A. § 9543(a)(1)(i); Commonwealth v. Turner, 80 A.3d 754, (Pa. 2013). To be eligible for PCRA relief one must also plead and prove that an issue has not been previously litigated. 42 Pa.C.S.A. § 9543(a)(3). An issue has been previously litigated where the highest appellate court in which review was available as of right has ruled on the merits of the issue. 42 Pa.C.S.A. § 9544(a)(2); Albrecht, 720 A.2d at 703. Moreover, post-conviction relief cannot be obtained by presenting new theories to support previously litigated claims. Commonwealth v. Christy, 656 A.2d 877 (Pa. 1995).

It is important to point out that there is a heightened standard of review for second or subsequent PCRA petitions to discourage the exploitation of the PCRA process. Commonwealth v. Lewis, 718 A.2d 1262, 1264 (Pa. Super. 1998); Commonwealth v. Fahy, 737 A.2d 214, 222-23 (Pa. 1999). Requests for review of a second or subsequent post-conviction petition will not be entertained unless a strong *prima facie* showing is offered to demonstrate that a miscarriage of justice may have occurred. Commonwealth v. Lawson, 549 A.2d 107, 112 (Pa. 1988). This standard is met only if the petitioner can demonstrate either that: (a) the proceedings resulting in his conviction were so unfair that a miscarriage of justice occurred which no civilized society can tolerate; or (b) he is innocent of the crimes charged. Commonwealth v. Szuchon, 633 A.2d 1098, 1099-1100 (Pa. 1993); Commonwealth v. Morales, 701 A.2d 516, 520-21 (Pa. 1997). Thus, under this case law, "in a second or subsequent post-conviction proceeding, all issues are waived except those which raise the possibility that the proceedings resulting in conviction were so unfair that a miscarriage of justice which no civilized society can tolerate occurred." Commonwealth v. Williams, 660 A.2d 614, 618 (Pa. Super. 1995).

Notwithstanding one of the statutory exceptions, this Court retains jurisdiction to hear a PCRA petition, including second and subsequent petitions, for one year from the time a sentence becomes final. 42 Pa.C.S.A. § 9545(b); Commonwealth v. Abu-Jamal, 833 A.2d 719 (Pa. 2003); Commonwealth v. Morris, 822 A.2d 684 (Pa. 1993); Commonwealth v. Palmer, 814 A.2d 700 (Pa. Super. 2002). The substantive merits of a PCRA petition are irrelevant to the timeliness requirement. Commonwealth v. Murray, 753 A.2d 201 (Pa. 2000); Commonwealth v. Brown, 943 A.2d 264 (Pa. 2008). A judgment of sentence becomes final at the expiration of the time allowed for seeking review through direct appeal. See 42 Pa.C.S.A. § 9545(b)(3).

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Though a PCRA petition may be facially untimely, section 9545(b)(1) of the PCRA provides for three (3) exceptions to the one-year deadline for filing a timely PCRA petition. These exceptions are as follows:

- (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.

See 42 Pa.C.S.A. § 9545(b)(1)(i-iii); Commonwealth v. Walker, 721 A.2d 380, 382, n3 (Pa. Super. 1998).

It is the petitioner's burden to plead in a PCRA petition any exceptions to the time bar, and that burden necessarily entails an acknowledgement by the petitioner that the PCRA petition under review is untimely, but that one or more of the exceptions apply. Commonwealth v. Wharton, 886 A.2d 1120, 1126 (Pa. 2005); see also Commonwealth v. Beasley, 741 A.2d 1258 (Pa. 1999). Moreover, a petition invoking one of the statutory exceptions must be filed within sixty (60) days of the date the claim could have been presented. 42 Pa.C.S.A. § 9545(b)(2); Beasley, 741 A.2d at 1260-61; Commonwealth v. Fahy, 737 A.2d 214, 219 (Pa. 1999).

Although there is heightened standard of review for a second and subsequent PCRA petition to discourage the exploitation of the PCRA process, this standard does not provide an additional exception permitting the filing of an untimely second or subsequent PCR petition. A second or subsequent PCRA petition must still be filed within one year of the date judgment becomes final, or fall within one of the three statutory exceptions under 42 Pa.C.S.A. § 9545.

The one year period, in which a defendant has to file a PCRA petition, begins to run upon the conclusion of direct review. If a defendant's judgment of sentence is affirmed by the Superior Court and the defendant does not file a Petition for Allowance of Appeal with the Supreme Court, the judgment of sentence becomes final when the period for seeking such review expires, thirty (30) days after the entry of the Superior Court's order affirming the judgment of sentence. See Pa.R.A.P. 113(a). If a defendant's Petition for Allowance of Appeal is denied by the Supreme Court or if the defendant's judgment of sentence is affirmed by the Supreme Court, and the defendant does not file a Petition for a Writ of Certiorari with the United States Supreme Court, the judgment of sentence becomes final when the period for seeking such review expires, ninety (90) days after the entry of the Supreme Court's order denying review or affirming the judgment of sentence. See U.S. Sup. Ct. Rule 13; Commonwealth v. Lark, 746 A.2d 585, 587 (Pa. 2000); Fahy, 737 A.2d at 218.

In the present case, Defendant appealed his judgment of sentence, which was affirmed by the Superior Court of Pennsylvania on May 17, 1993, by Memorandum Opinion. Commonwealth v. Steven Bleau, 631 A.2d 210 (Pa. Super. 1993). On September 24, 1993, Defendant filed a Petition for Allowance of Appeal *Nunc Pro Tunc* with the Supreme Court of Pennsylvania. On November 24, 1993, Defendant's Petition for Allowance of Appeal *Nunc Pro Tunc* was denied by the Supreme Court. Where, as here, Defendant's judgment of sentence became final 90 days after the Supreme Court of Pennsylvania denied allocatur. See U.S. Sup. Ct. Rule 13; Commonwealth v. Lark, 746 A.2d 585, 587 (Pa. 2000); Fahy, 737 A.2d at 218. Accordingly, as we will explain, Defendant's judgment of sentence became final prior to the PCRA amendments of 1995.

On November 17, 1995, the Legislature amended the PCRA. These amendments became effective 60 days later, on January 16, 1996. In addition to the exceptions contained in 42 Pa.C.S.A. § 9545(b)(1)(i-iii), the legislative amendment created an additional but very limited exception to the timeliness rule, for a petitioner whose judgment became final on or before the effective date of the amendments. Pursuant to the legislative amendments, a first PCRA petition is still timely, so long as it was filed within one year of the PCRA amendments becoming effective. Commonwealth v. McCullum, 738 A.2d 1007, 1008 n.4 (Pa. 1999); Commonwealth v. Laszczynski, 715 A.2d 1185,

1188 n.1 (Pa. Super. 1998). To reiterate, this limited exception applies only to first PCRA petitions. There is no provision for a grace period for the filing of a second or subsequent PCRA petition. Consequently, this exception is not relevant in the present case and Defendant must establish one of the three statutory exceptions under 42 Pa.C.S.A. § 9545(b)(1) to excuse his late filing.

Having already established that the instant PCRA petition is facially untimely, we must now determine whether one of the aforementioned exceptions to the one-year filing requirement applies. As we will explain, a conscientious examination of the record fails to establish any exception relevant to Defendant's claimed issues.

Defendant acknowledges that his fourth PCRA petition is facially untimely and relies upon 42 Pa.C.S.A. § 9545(b)(1)(ii) as the exception which would excuse the late filing. We reiterate that the timeliness exception contained in Section 9545(b)(1)(ii) requires a petitioner to demonstrate that he did not know the facts upon which his petition is based and could not have learned those facts earlier by the exercise of due diligence. See 42 Pa.C.S.A. § 9545(b)(1)(ii); Commonwealth v. Bronshtein, 752 A.2d 868 870-71 (Pa. 2000); Commonwealth v. Pursell, 749 A.2d 911, 916 (Pa. 2000). Due diligence demands that a petitioner take reasonable steps to protect his own interests. Commonwealth v. Carr, 768 A.2d 1164, 1168 (Pa. Super. 2001). The exception under section 9545(b)(1)(ii) focuses solely on newly discovered facts, not on newly discovered or a newly willing source for previously known facts. Abu-Jamal, 941 A.2d at 1267. Similarly, this exception does not apply to a situation where the defendant becomes aware of a rule of law previously unknown to him. Commonwealth v. Baroni, 795 A.2d 1007, 1009-1010 (Pa. Super. 2002). More importantly, this exception does not apply where a defendant alleges that competent counsel would have presented other claims based on a better evaluation of the facts available at trial, or that he was unaware of prior counsel's ineffectiveness until new counsel reviewed the file. Bronshtein, 752 A.2d at 871.

The Supreme Court of Pennsylvania reaffirmed the well-established standard for the consideration of after-discovered evidence. After-discovered evidence can be the basis for a new trial if it: 1) has been discovered after the trial and could not have been obtained at or prior to the conclusion of the trial by the exercise of reasonable diligence; 2) is not merely corroborative or cumulative; 3) will not be used solely to impeach the credibility of a witness; and 4) is of such nature and character that a different verdict will likely result if a new trial is granted. Commonwealth v. Wilson, 649 A.2d 435, 448 (Pa. 1994). In addition, "an appellate court may not interfere with the denial or granting of a new trial where the sole ground is the alleged recantation of state witnesses unless there has been a clear abuse of discretion." Commonwealth v. Coleman, 264 A.2d 649, 651 (Pa. 1970). Moreover, recantation evidence is one of the least reliable forms of proof, particularly when it constitutes an admission of perjury. As such, recantation testimony should only be accepted with great caution. Commonwealth v. Dennis, 715 A.2d 404, 416 (Pa. 1998). Likewise, appellate courts have been skeptical of post-verdict testimony of jailed accomplices whose sentences have been imposed by the Court. Commonwealth v. Tervalon, 345 A.2d 671 (Pa. 1975).

Mindful of these precepts, we now review Defendant's claim. In the PCRA petition and Amendment now before the Court, Defendant contends that approximately 30 years after his conviction, he has recently discovered two police reports that were previously provided to his trial counsel during discovery which establish his innocence. Defendant further asserts that his cousin was in possession of these police reports and other legal material from Defendant's trial. Defendant claims that when his cousin died, sometime around November 27, 2016, Defendant's sister discovered the police reports in the cousin's apartment and made Defendant aware of the materials. Defendant asserts that the two police reports contain interviews of his friend, New York Grocery Store owner, Frank Fayz, which establish his alibi and innocence. We find that Defendant's reliance on the police reports is misplaced and can form no successful basis for relief under the PCRA.

The due diligence inquiry is fact-sensitive and dependent upon the circumstances presented. Here, Defendant fails to establish due diligence. Defendant acknowledges in his PCRA petition that defense counsel was already in possession of the two police reports at the time of his trial. Therefore, defense counsel knew of the existence of Mr. Fayz and the statements provided to police by Mr. Fayz. Logic dictates that because both police reports were previously turned over to defense counsel in discovery; the information contained therein does not constitute newly discovered evidence. We reiterate that the exception under section 9545(b)(1)(ii) focuses solely on

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newly discovered facts, not on newly discovered or a newly willing source for previously known facts. Accordingly, Defendants argument to the contrary is unavailing.

Similarly, Defendant fails to provide any credible evidence as to why he was unable to obtain the police reports earlier through due diligence. Defendant's contention that he was not aware of trial counsel's ineffectiveness for failing to investigate the alibi witnesses contained in the police reports is belied by the record. Defendant has been acting *pro se* for the majority of the last 30 years. Through self-representation, Defendant would have had access to his entire file including the police reports and other discovery material. Due diligence demands that Defendant take reasonable steps, such as reviewing his file, to protect his own interests. Defendant's lack of legal training and failure to review his file before November 27, 2016, does not excuse the late filing of the instant PCRA petition. Clearly, we will not construe Defendant's acquiescence as due diligence. Because the information contained in the police reports were already discovered by trial counsel and could have easily been discovered by Defendant prior to the death of his cousin; it is disingenuous for Defendant to now assert that he acted with due diligence. Consequently, Defendant has failed to prove the applicability of the timeliness exception set forth at Section 9545(b)(1)(ii).

Even assuming, arguendo, that Defendant could establish that he learned of the police reports for the first time on or about November 27, 2016, which he cannot; the reports are inadmissible in these proceedings. We conclude that the evidence which purportedly reveals that someone other than Defendant committed the murder is hearsay, not within any exception, and so unreliable as to be inadmissible. Because the police reports constitute inadmissible hearsay, they may not be used to trigger the newly discovered evidence exception. See Commonwealth v. Yaris, 731 A.2d 581, 592 (Pa. 1999) (a claim based on inadmissible hearsay does not implicate the after-discovered evidence exception, nor would such a claim, even if timely, entitle defendant to relief under the PCRA). Accordingly, Defendant has failed to establish that he meets an exception to the PCRA time filing requirements.

The one-year filing requirement is jurisdictional in nature and, as such, an untimely PCRA petition deprives this Court of jurisdiction over the subject matter. Pursell, 749 A.2d at 913-914. It is imperative to note that the substantive merits of a PCRA petition are irrelevant to the timeliness of the PCRA petition. Murray, 753 A.2d at 203. The PCRA confers no authority upon a PCRA court or an appellate court to fashion an ad hoc equitable exception to the PCRA time-bar. Commonwealth v. Hackett, 956 A.2d 978, 983-84 (Pa. 2008). Even an allegation of a miscarriage of justice may not be considered, unless the court has jurisdiction to review the defendant's petition, and such jurisdiction does not exist when the defendant's petition is untimely and fails to satisfy one of the exceptions to the PCRA timeliness requirements. Fahy, 737 A.2d at 223; Commonwealth v. Peterkin, 722 A.2d 638, 642 (Pa. 1998).

Because Defendant's PCRA petition is both untimely and fails to establish any of the enumerated exceptions to this one-year timeliness requirement, this Court is divested of jurisdiction over this matter. As such, Defendant is not entitled to the requested evidentiary hearing. The right to an evidentiary hearing on a post-conviction petition is not absolute. It is within the PCRA court's discretion to decline to hold a hearing if the petitioner's claim is patently frivolous and has no support either in the record or other evidence. It is the responsibility of the reviewing court on appeal to examine each issue raised in the PCRA petition in light of the record certified before it in order to determine if the PCRA court erred in its determination that there were no genuine issues of material fact in controversy and in denying relief without conducting an evidentiary hearing. Commonwealth v. Wah, 42 A.3d 335, 338 (Pa. Super. 2012). Accordingly, after a conscientious examination of the record, we conclude that Defendant's fourth PCRA petition and Amendment are to be dismissed without an evidentiary hearing.

EVANS & NOLL  
William R. Noll, Esquire  
I.D. # 62524  
135-137 W. Market Street  
West Chester, PA 19382  
610-436-6220

COMMONWEALTH OF PENNSYLVANIA

v.

STEVEN BLEAU

:IN THE COURT OF COMMON PLEAS

:CHESTER COUNTY, PENNSYLVANIA

:NO. 443-88

:CRIMINAL ACTION

PETITION TO WITHDRAW AS COUNSEL

NOW COMES, the Petitioner, William R. Noll, Esquire as  
counsel for the Defendant who respectfully represents the  
following:

1. The Defendant filed a Petition for Post Conviction relief on August 27, 1996.
2. Current counsel was appointed to represent the Defendant in March of 1997.
3. Current counsel has driven to the Graterford Prison to discuss the merits of the Defendant's allegations.
4. Current counsel has sought and received funding for a private investigator to interview a witness the Defendant contends is crucial to his petition, Laura Trowery.
5. Current counsel has reviewed the trial transcript and pleadings drafted by the Defendant.
6. Current counsel believes that all of the issues raised in the Defendant's Petition are meritless except an allegation that the Defendant denied the right to counsel when he was speaking to Gary Mamenko, a jailhouse informant.
7. Current counsel has been unable to contact Mr. Mamenko

due to other obligations.

8. Current counsel believes that there may be an issue of merit with reference to Mr. Mamenko's statements.

9. The Defendant has repeatedly requested that current counsel withdraw from the case and that new counsel be appointed.

10. The Defendant has filed a complaint with the Disciplinary Board against current counsel.

11. Current counsel believes, and therefore avers, that the Defendant wishes to have new counsel appointed.

WHEREFORE, Petitioner requests this Honorable Court grant him leave to withdraw as counsel.

Respectfully submitted,

Dated: 7/14/94

By: William R. Noll  
William R. Noll, Esquire

Certified From The Record  
This..... Day of ..... 19.....  
..... Deputy Clerk of Common Pleas Court

Copies  
Searched  
D.P.  
D.A.

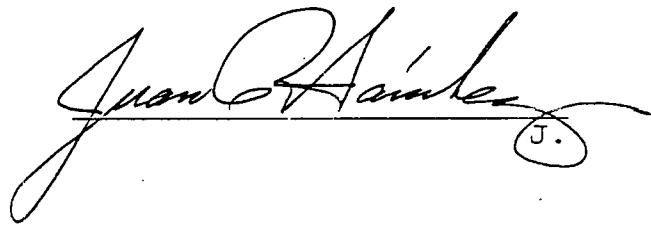
EVANS & NOLL  
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COMMONWEALTH OF PENNSYLVANIA :IN THE COURT OF COMMON PLEAS  
v. :CHESTER COUNTY, PENNSYLVANIA  
STEVEN BLEAU :NO. 443-88  
:CRIMINAL ACTION

ORDER

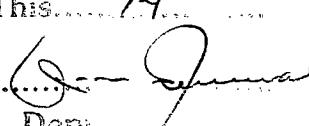
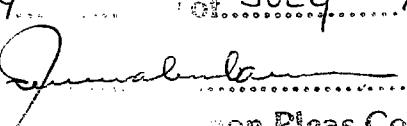
AND NOW this 14<sup>th</sup> Day of July, 1998, William R. Noll  
Esquire is hereby granted leave to withdraw as counsel. The  
Defendant has requested that he be permitted to proceed pro se.

  
J.

Rec'd. in open Court  
G. - Juan O. Hainke, Esq.  
7-14-98

in The Record

This 14 of July 1998

  
Dep.   
Common Pleas Court

IN THE COURT OF COMMON PLEAS FOR  
CHESTER COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

: PCRA

V.

STEVEN BLEAU, PETITIONER

: CASE # 443-88

EX PARTE MOTION FOR FUNDS TO  
HIRE PRIVATE INVESTIGATOR

NOW COMES, Steven Bleau, Pro Se in the above captioned matter, stating the following in support thereof:

- 1) I am the petitioner representing myself in this PCRA appeal and I am without the resources or funds to hire a private investigator.
- 2) My issue under review involves trial counsels failure to investigate, interview and call a known Alibi witness, Mr. Frank Fayz, for my 1988 trial.
- 3) The impetus for this request is an investigative police report of this alibi witness, Mr. Frank Fayz, a grocery store owner made exculpatory statements to the Pennsylvania detectives a week after the November 29, 1987 crime . (See: exhibit "A")
- 4) Petitioner was not aware of these statements during the time of trial and has recently discovered the reports of Mr. Fayz' statement. It is imperative Mr. Fayz be located for purpose of interviewing him, obtaining an affidavit and to serve a subpoena upon him for possible evidentiary hearing. Petitioner should have the opportunity to substantiate his claims and create a full record for the court to review.

5) Petitioner has found an investigator willing to help locate Mr. Fayz. I only have Mr. Fayz' name, nationality, previous address and age for. This investigator charges a retainer of \$2,000, and his credentials with contact information is attached. (See: exhibit "B")

WHEREFORE, Petitioner prays that this honorable court grant this petition for funding, in the interest of justice.

Respectfully submitted,

S/ Steven Bleau

Date: 3/22/17

Steven Bleau, Pro Se

## DEPARTMENT: Chester County Detectives

## SUPPLEMENTAL INVESTIGATION

13. PAGE <u>1</u> OF <u>1</u>	19. DATE OF REPORT <u>8 DEC 87</u>	1. HARMED, VICTIM, (LAST-FIRST-MIDDLE) (FIRM NAME IF BUSINESS) <u>TOLEDO, MABEL</u>	2. COMPLAINT NO. <u>C-217-87</u>
<input checked="" type="checkbox"/> ADDED INFO. <input type="checkbox"/> FOLLOW-UP		3. ADDRESS OF ARRESTEE, VICTIM <u>600 E. 35th St., Brooklyn, N.Y.</u>	
4. DATE-TIME OF ORIGINAL INCIDENT <u>29-30 NOV 87</u>		5. ADDITIONAL STOLEN <u>N/A</u>	6. OFFENSE CHANGED FROM <u>15. OTN</u>
23. SCOPE/ GRM /DATE <u>N/A</u>		7. SUP. SENT <u>YES <input type="checkbox"/> NO <input type="checkbox"/></u>	8. ADDITIONAL RECOVERED <u>N/A</u>
9. SOLVABILITY FACTOR CODES		10. E-NAMED SUSPECT <u>FROM CRIME INVESTIGATION REPORT</u>	
A-WITNESS B-M.O. C-PHYSICAL EVIDENCE D-TRACEABLE PROPERTY		11. G-DESCRIBED SUSPECT <u>J-VEHICLE ID</u>	
E-LOCATED SUSPECT		12. H-IDENTIF. SUSPECT	
F-LOCATED SUSPECT		13. J-SOLVED WITH REAS. EFFORT	
14. SOLVABILITY FACTORS FOR INVESTIGATION			

NARRATIVE: DO NOT REPEAT THE RESULTS OF THE PRELIMINARY INVESTIGATION. REPORT ALL ACTIONS TAKEN AND ALL DEVELOPMENTS IN THE CASE SINCE THE LAST REPORT. DESCRIBE AND RECORD THE VARIOUS CODES OF RECOVERED PROPERTY. LIST THE NAME, RECORD NUMBER AND DESCRIPTION OF PERSONS ARRESTED. EXPLAIN CLASSIFICATION CHANGE. CLEARLY SHOW THE DISPOSITION OF RECOVERED PROPERTY.

V2-George Allan MONTGOMERY-BNHM/DOB: 21 MAY 66, 366 Clifton Place, Brooklyn, New York, telephone #718-622-2489.

The interview was conducted on 8 DEC 87. The person interviewed was Frank FAYZ, age 29. FAYZ owns Frank's Groceries located at 549 Flatbush Avenue, Brooklyn, New York, there is no telephone. The interview was conducted at Frank's Grocery Store. Mr. FAYZ stated that he does know Steve BLEAU. He stated that he has known him for approximately two years and that he met Steve through his girlfriend Felicia. Mr. FAYZ stated that he worked in the Store Sunday night, until Monday morning, on 29 and 30 NOV 87. Mr. FAYZ stated that Steve came into the Store about Midnight. He stated that he is not sure about the time. He stated that Steve was in the store for about a half hour and just hung around. Mr. FAYZ stated that Steve did not seem very nervous and he did not notice anything strange about Steve. He did state that Steve was alone and he did not observe any car parked out front or anyone hanging around waiting for Steve. Mr. FAYZ stated that Steve never asked him to lie or give him an alibi. Mr. FAYZ stated that he does not know anyone by the name of Greg. Mr. FAYZ appeared not to have very much information regarding Steve and the time that he came to the store, Sunday night, Monday morning. This interview was completed at this time.

16. ELIMINATED BY INVESTIGATION	17. DEVELOPED BY INVESTIGATION
18. REPORTING OFFICER (PRINT) <u>t. Kenneth BEAM</u>	19. STATUS <input checked="" type="checkbox"/> ARREST-ADULT <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> ARREST-JUV. <input type="checkbox"/> PENDING-ACTIVE <input type="checkbox"/> EXCEPT. CLEAR <input type="checkbox"/> PENDING-INACTIVE <input type="checkbox"/> SERVICE CLEAR
20. SIGNATURE <u>Danita Beam</u>	21. REMAINING FOR INVESTIGATION
22. DIVISION / WHITE	23. DISTRICT ATTORNEY / PINK
24. ADDITIONAL COPY / GOLD	

DEPARTMENT: Chester County Detectives

SUPPLEMENTAL  CONTINUATION

13. PAGE <u>1</u> OF <u>1</u>	14. DATE OF REPORT <u>9 Dec 87</u>	15. ARRESTEE, VICTIM (LAST-FIRST-MIDDLE (IF IN NAME OF BUSINESS)) <u>TOLEDO, MABEL</u>	16. COMPLAINT NO. <u>C-217-87</u>		
17. ADDED INFO. <input checked="" type="checkbox"/> FOLLOW-UP		18. ADDRESS OF ARRESTEE, VICTIM <u>600 E. 35th ST., Brooklyn, N.Y.</u>	19. ARREST NO. <u>CAR-98-87</u>		
20. DATE-TIME OF ORIGINAL INCIDENT <u>29-30 NOV 87</u>		21. ADDITIONAL STOLEN <u>N/A</u>	22. OFFENSE CHANGED FROM <u>1075-4370-4</u>		
23. SCOPE / CRIM / DATE <u>N/A</u>		24. ADDITIONAL RECOVERED <u>N/A</u>	25. CORRECT OFFENSE <u>Homicide</u>		
26. SUP. SENT <u>YES <input type="checkbox"/> NO <input type="checkbox"/></u>		27. U.C.R. CLASSIFICATION <u>011</u>			
SOLVABILITY FACTORS	A-WITNESS B-M.O.	C-PHYSICAL EVIDENCE D-TRACEABLE PROPERTY	E-NAMED SUSPECT F-LOCATED SUSPECT	G-DESCRIBED SUSPECT H-IDENTIF. SUSPECT	I-VEHICLE ID J-SOLVED WITH REAS. EFFORT
SOLVABILITY FACTORS FOR INVESTIGATION FROM CRIME INVESTIGATION REPORT					

NARRATIVE: DO NOT REPEAT THE RESULTS OF THE PRELIMINARY INVESTIGATION. REPORT ALL ACTIONS TAKEN AND ALL DEVELOPMENTS IN THE CASE SINCE THE LAST REPORT. DESCRIBE AND RECORD THE VALUE OF RECOVERED PROPERTY. LIST THE NAME, RECORD NUMBER AND DESCRIPTION OF PERSONS ARRESTED. EXPLAIN CLASSIFICATION CHANGE. CLEARLY SHOW THE DISPOSITION OF RECOVERED PROPERTY.

V2-George Allan MONTGOMERY - BNHM/DOB: 21 MAY 66, 366 Clifton Place, Brooklyn, New York, telephone #718-622-2489.

On DEC 87, upon arriving at the 77th Precinct located at 127 Utica Avenue, Brooklyn, New York, (718)735-0661, this officer received a telephone message from Mr. Frank FAYZ via Det. Steven FITZPATRICK, who assisted in this investigation. Mr. FAYZ indicated that he had additional information relative to this investigation. This evening this officer proceeded to Frank's Grocery Store located at 549 Flatbush Avenue, Brooklyn, New York. There is no phone. This officer commenced this interview with Mr. Frank FAYZ, age 29. Mr. FAYZ stated that after the initial interview earlier, as requested, he thought more about what time Steve came into his store on 30 NOV 87. Mr. FAYZ stated that he recalled Steve left about 4:15a.m. He remembered Steve hung around for a half hour, then left a few minutes after he told Steve he was closing in forty five minutes. Mr. FAYZ stated that morning he closed at his usual time 5a.m. Mr. FAYZ also recalled Steve purchasing a pack of cigarettes. Mr. FAYZ stated that during the initial interview he didn't think about what time Steve left, because he was concentrating on what time he came in. Mr. FAYZ stated that the last time he seen Steve was the morning of 30 NOV 87. This officer encouraged Mr. FAYZ to contact the 77th Precinct again if he remembers any additional information helpful to this investigation. This interview was completed at this time.

JAILITY FACTORS	ELIMINATED BY INVESTIGATION	DEVELOPED BY INVESTIGATION	
DATING OFFICER (PRINT) <u>Kenneth BEAM</u>		43. STATUS <input checked="" type="checkbox"/> ARREST-ADULT <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> ARREST-JUV. <input type="checkbox"/> PENDING-ACTIVE <input type="checkbox"/> EXCEPT CLEAR <input type="checkbox"/> PENDING-INACTIVE <input type="checkbox"/> SERVICE CLEAR	REMAINING FOR INVESTIGATION
DEA SIGNATURE <u>Kenneth BEAM, MTC</u>		44. SUPER. <u>19. SUPER.</u>	35a
GO DEPARTMENT / WHITE		CRIMINAL DIVISION / YELLOW	
		DISTRICT ATTORNEY / PINK	
		ADDITIONAL COPY / GOLD	

**JUDD BANK**

212 822 3424

50 West 17th Street - 8th Floor, New York, NY 10011

DetectiveJudd@gmail.com

**Executive Profile**

Accomplished Private Investigator and Polygraph Expert, Judd Bank is the President of CPI Investigations, a private investigative firm licensed in New York with over 30 years of experience. CPI Investigations specializes in surveillance, polygraph testing, electronic eavesdropping protection, child custody cases, missing persons and event security and executive protection.

**Skills**

Surveillance  
Event Security/Executive protection  
Electronic Eavesdropping Protection

Polygraph Testing  
Child Custody Cases & Missing Persons

**Core Accomplishments**

Polygraph Examiner for the New York City Department of Probation for sex offenders.

Expert Investigator and Polygraph Examiner for the Legal Aid Society in New York.

Chief Polygraph Expert with the Queens District Attorney's Office.

As a detective for the Queens District Attorney's Office, Mr. Bank received a special accommodation for his work with former Assistant District Attorney, and now former Governor of New York, David Patterson on the Creedmoor Hospital investigation.

Served as an expert witness on behalf of NBC Evening News in regard to the Amadu Diallo Investigation.

**Professional Experience**

Polygraph Examiner &  
Security Consultant:

Four of the top armored car companies in the NY area.

Top Investigator & Polygraph Examiner: New York City's Jewelry District.

Chief Investigator & Polygraph Expert: Bank & Scott Security New York, NY

Detective & Chief Polygraph Expert: Queens County District Attorney's Office, NY

**Education**

Brooklyn College:

Bachelor's Degree Psychology

IN THE COURT OF COMMON PLEAS FOR  
CHESTER COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : PCRA  
V. :  
STEVEN BLEAU, PETITONER : CASE # 443-88

CERTIFICATE OF SERVICE

I, Steven Bleau, Pro Se, hereby certify that I am serving one copy of the foregoing Ex Parte Motion for Fund to Hire a Private Investigator at C.P. No. 443-88 upon the clerk of courts of Chester County, Pennsylvania, located at 201 W. Market Street, Ste. 1400, P.O. Box 2746, West Chester Pennsylvania 19380-0989, by placing the same in the U.S. Mail at SCI Dallas, which satisfies the requirements of Pa.R.Crim.Pro. 901(B).

Date: 3/22/17

s/ Steven Bleau

Steven Bleau, Pro Se  
SCI Dallas/BT7478  
1000 Follies Road  
Dallas, PA 18612

filed  
1/1

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS

: CHESTER COUNTY, PENNSYLVANIA

: CRIMINAL ACTION - PCRA

STEVEN BLEAU

: NO. 443-1988

## ORDER

AND NOW, this 29 day of March, 2017, upon consideration of Defendant's "Ex Parte Motion for Funds to Hire Private Investigator" it is hereby ORDERED that the Motion is DENIED.

BY THE COURT:

  
William P. Mahon, Jr.

William P. Mahon, J.

REG'D. U.S. PAT. & T. OFF.  
MAY 29, 1911 PH 3:40  
J. E. H. MURRAY  
O. P. A.  
O. P. A.

Certified From The Record

IN THE COURT OF COMMON PLEAS FOR  
CHESTER COUNTY, PENNSYLVANIA  
COMMONWEALTH OF PENNSYLVANIA : PCRA  
V. :  
STEVEN BLEAU, PETITONER : CASE #443-88

**MOTION FOR RECONSIDERATION OF  
EX PARTE MOTION FOR FUNDS TO HIRE PRIVATE INVESTIGATOR  
AND MOTION TO STAY THE PROCEEDINGS**

NOW COMES, Steven Bleau, Pro Se in the above captioned matter stating the following in support thereof:

- 1) On March 7, 2017, petitioner filed his fourth Pro Se, PCRA Petition with this court.
- 2) On March 17, 2017, this court denied appointment of counsel.
- 3) On March 27, 2017, petitioner being indigent filed an ex parte motion for investigator funds to hire a private investigator to locate alibi witness, Mr. Frank Fayz, who's at the core of this appeal. This court denied said motion on March 29, 2017.
- 4) On April 3, 2017, petitioner filed a Motion to Stay the Proceedings for 90 days, so this critical alibi witness can be located and served with a subpoena to secure his attendance at future PCRA hearings.

This court denied said motion on April 6, 2017.

- 5) In this courts April 6th denial of petitioners request it classified said request as "a fishing expedition".

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This court has misrepresented and misunderstood the facts supporting said motion.

- 6) Petitioner's primary defense at trial was Alibi and the omitted statements Mr. Fayz gave to the police in 1987 was critical to petitioner's defense, as it is to this appeal. There is a strong probability it would have changed the outcome of the trial. (See: exhibits attached to original Ex Parte motion dated 3/27/17) With no other evidence placing petitioner at the crime scene when the crime was occurring, aside from the testimony of co-defendant Ferguson, Mr. Fayz' statements is exonerating. Mr Fayz places petitioner two states away during the time the crime was being committed. Furthermore, he is the only

one who could verify trial counsel never interview him.

7) In the interest of justice, this honorable court should reconsider it's previous orders and grant funding and a stay of proceedings for atleast 60 days, to achieve due process. In Commonwealth v. Bridges, the court stated that:

"Appellant must prove witnesses would provide the desired information and that this information was necessary in support of his PCRA claims. 584 Pa. 589 (Dec.2004)... Investigators may be appointed by the PCRA court to assist indigent petitioner's upon showing by the petitioner that the assistance is reasonably necessary to the preparation of his case." Commonwealth v. Peterkin, 511 Pa. 299, 513 A.2d. 373, 385-86 (Pa.1986).

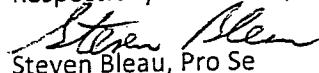
8) Petitioner has provided the desired information and showed this court the necessity of it. Petitioner has been denied appointment of counsel, is indigent, proceeding Pro Se, and needs the court assistance to achieve justice in this case. Whether or not this court grant funding or not, petitioner should atleast be given a stay of these proceedings for 60 days to locate Mr. Fayz, given the exculpatory nature of his statements.

9) Petitioner asserts he is innocent and Mr. Fayz' statement substantiates that. Pennsylvania Rules of Criminal Procedures 2.2 states: (IMPARTIALITY AND FAIRNESS)

" 4: It is not a violation of this rule for a judge to make reasonable accomodations to ensure Pro Se litigants the opportunity to have their matters heard fairly and impartially."

WHEREFORE, petitioner pray this honorable court reconsider and reverse it's prior decision, and grant this motion in the interest of justice.

Respectfully submitted,

  
Steven Bleau, Pro Se

IN THE COURT OF COMMON PLEAS FOR  
CHESTER COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : PCRA  
V. :  
STEVEN BLEAU, PETITONER : CASE #443-88

CERTIFICATE OF SERVICE

I, Steven Bleau, Pro Se in the above captioned matter certify that I am serving the foregoing Motion for Reconsideration upon the district attorney, located at the address listed below, by placing the same in the U.S. Mail repository at SCI Dallas, which satisfies the requirements of Pa.R.Crim.Proc. 901(B).

MAILED TOO:

Chester County District Attorney Office  
201 West Market Street  
P.O. Box 2746  
West Chester, PA 19380-0989.

  
Steven Bleau, Pro Se

Date: 4/26/17

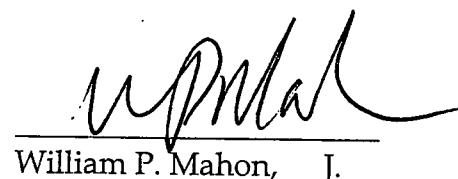
COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS  
VS. : CHESTER COUNTY, PENNSYLVANIA  
STEVEN BLEAU : CRIMINAL ACTION - PCRA  
: NO. CP-15-CR-0000443-1988

Nicholas J. Casenta, Jr., Esquire, Chief Deputy District Attorney for the Commonwealth  
Steven Bleau, *Pro Se* Defendant

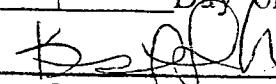
*3<sup>rd</sup>* ORDER

AND NOW, this 3<sup>rd</sup> day of May, 2017, upon consideration of Defendant's Motion for Reconsideration of Ex Parte Motion for Funds to Hire Private Investigator and Motion to Stay the Proceedings,<sup>1</sup> it is hereby ORDERED and DECREED that Defendant's motion for reconsideration is DENIED.

BY THE COURT:



William P. Mahon, J.

Certified from The Record	
This <u>4</u> Day of <u>May</u> 2017	
	
Deputy Clerk of Common Pleas Court	

<sup>1</sup> Filed of record on May 1, 2017.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**