APPENDIX A

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT OP 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellee	:	
v.	:	
QUENTIN M. SALMOND	:	
Appellant	:	No. 3037 EDA 2022

Appeal from the PCRA Order Entered November 23, 2022
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0009615-2012

BEFORE: PANELLA, P.J., KUNSELMAN, J., and KING, J.

MEMORANDUM BY KING, J.: **FILED AUGUST 24, 2023**

Appellant, Quentin M. Salmond, appeals *pro se* from the order entered in the Philadelphia County Court of Common Pleas, which denied as untimely his second petition filed pursuant to the Post Conviction Relief Act ("PCRA").[1] We affirm.

The PCRA court set forth the relevant facts of this case as follows:

> On April 12, 2008, at about 12:30 p.m., Joan Hill was working at an insurance office located at 5637 Chew Avenue when she saw a blue Lincoln town car parked with the engine running on Woodlawn Avenue. A man, later identified as [Appellant], dressed in women's Muslim clothing exited the vehicle. Hill believed the man was going to rob Skyline Restaurant, located around the corner, so she called 9-1-1 and gave the license plate number of the vehicle.
>
> At around noon that day, Kerron Denmark and Kenneth

[1] 42 Pa.C.S.A. §§ 9541-9546.

APPENDIX - A

On April 14, 2008, at about 9:00 p.m., an unlicensed blue Lincoln town car was found on fire in the area of Tenth Street and Chew Avenue. Lieutenant Rodney Wright of the Philadelphia Fire Department determined that the vehicle was burned intentionally.

On April 15, 2008, Charles Hayward gave a statement to police. Hayward explained that in February he had sold the blue Lincoln town car that Hill had called in to 9-1-1 to Bernard Salmond, [Appellant's] brother. According to Hayward, about a week previously, Wiggins had robbed [Appellant] after they had been gambling.

On April 17, 2008, Richard Hack, a friend of Wiggins, gave a statement to police. Hack explained that two days before the murder, [Appellant], Wiggins, and himself were gambling. [Appellant] and Wiggins argued about gambling debt and then Wiggins choked [Appellant] and took $1,000 from him. For the next couple of nights, [Appellant] and his friends were in the area looking for Wiggins.

On January 13, 2010, Robert Bluefort told police about three weeks after the murder, [Appellant] confessed to him that he shot Wiggins. According to [Appellant], he had to shoot or be shot. Bernard Salmond told Bluefort that the police had questioned Hayward because the car that was used in the murder was in his name. Bluefort and Bernard Salmond then discussed burning the vehicle. Benard Salmond stayed with Bluefort for about a month after the murder.

Banks was identified at trial by Michael Miller. Miller, who had interacted with Banks on many prior occasions, identified Banks from the surveillance video from Skyline Restaurant.

According to Halim Mackey and Andrea Williams, experts in latent print examination, Banks' fingerprints from his right middle finger and right ring finger were found on the Mountain Dew bottle recovered at the scene. An examination conducted through the AFIS database confirmed these findings.

[Appellant] testified that before the murder he was

memorandum), *appeal denied*, 654 Pa. 522, 216 A.3d 232 (2019).

Appellant filed the current *pro se* PCRA petition on September 16, 2022. On October 24, 2022, the court issued Pa.R.Crim.P. 907 notice of intent to dismiss the petition without a hearing. The court denied PCRA relief on November 23, 2022. Appellant timely filed a notice of appeal on November 30, 2022. The court did not order Appellant to file a Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal, and Appellant filed none.

Appellant raises eight issues for our review:

> Did the PCRA court err by dismissing [Appellant's] Post Conviction Relief Act Petition without an evidentiary hearing?
>
> Did the PCRA court err by failing to recognize and/or acknowledge [Appellant's] timeliness exception?
>
> Did the PCRA Court err by failing to recognize [Appellant's] government interference exception and [Appellant's] due diligence?
>
> Did the PCRA Court err by denying [Appellant] an evidentiary hearing on his claims of ineffective trial counsel and ineffective PCRA counsel?
>
> Did the PCRA Court err and violate [Appellant's] constitutional right by denying [Appellant] an evidentiary hearing when it denied his newly-discovered fact exception?
>
> Did the PCRA Court err and/or violate [Appellant's] Constitutional right by dismissing [Appellant's] PCRA petition and by denying him an evidentiary hearing without acknowledging and/or addressing all of [Appellant's] meritorious issues in his PCRA petition?
>
> Did the PCRA Court violate [Appellant's] Constitutional Right by dismissing [Appellant's] PCRA petition without correcting its illegal sentence of the [Appellant]?

> (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). Generally, "a claim of ineffective assistance of counsel does not provide an exception to the PCRA time bar." ***Commonwealth v. Sims***, 251 A.3d 445, 448 (Pa.Super. 2021), *appeal denied*, ___ Pa. ___, 265 A.3d 194 (2021).

"The governmental interference exception permits an otherwise untimely PCRA petition to be filed if it pleads and proves that 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 Constitutional or laws of this Commonwealth or the Constitution of laws of the United States." ***Commonwealth v. Staton***, 646 Pa. 284, 293, 184 A.3d 949, 955 (2018) (internal citation omitted). "In other words, [the petitioner] is required to show that but for the interference of a government actor, he could not have filed his claim earlier." ***Id.***

To satisfy the "newly-discovered facts" timeliness exception set forth in Section 9545(b)(1)(ii), a petitioner must demonstrate that "he did not know the facts upon which he based his petition and could not have learned those facts earlier by the exercise of due diligence." ***Commonwealth v. Brown***, 111 A.3d 171, 176 (Pa.Super. 2015), *appeal denied*, 633 Pa. 761, 125 A.3d 1197 (2015). Due diligence requires the petitioner to take reasonable steps

v. Johnson, No. 696 EDA 2022 (Pa.Super. filed Mar. 7, 2023) (unpublished memorandum)[2] (holding ***Bradley*** did not recognize new constitutional right permitting PCRA petitioners to file subsequent PCRA petitions in order to challenge prior PCRA counsel's ineffective assistance).

Instantly, Appellant's judgment of sentence became final on November 29, 2015, thirty days after this Court affirmed Appellant's judgment of sentence and the time for filing a petition for allowance of appeal with our Supreme Court expired. ***See*** 42 Pa.C.S.A. § 9545(b)(3). ***See also*** Pa.R.A.P. 1113 (providing 30 days to file petition for allowance of appeal with Supreme Court). Thus, Appellant had until November 29, 2016 to file a timely PCRA petition. ***See*** 42 Pa.C.S.A. § 9545(b)(1). Appellant filed the current PCRA petition on September 16, 2022, which is facially untimely.

On appeal, Appellant attempts to invoke each of the PCRA's timeliness exceptions. In support of the governmental interference exception, Appellant argues that the government suppressed Appellant's phone records that demonstrated Appellant was not at the scene of the crime at the relevant time. Appellant claims he attached to his PCRA petition exhibits showing that he requested the records but that government officials ignored the requests.

Regarding the "newly-discovered facts" exception, Appellant alleges that Detective Williams was indicted in 2019, which calls into question the

---

[2] ***See*** Pa.R.A.P. 126(b) (stating this Court may cite to and rely on for persuasive value unpublished decisions of this Court filed after May 1, 2019).

> [Appellant] did not exercise due diligence because he did not attempt to acquire his records until over eight years after his conviction. ...[Appellant] alleges that he spoke with trial counsel prior to trial about obtaining his phone records but provides no documentation to support this assertion other than a copy of the May 20, 2008 Activity Sheet with a handwritten note which says "Cell phone records—GPS Can tell where people are." ***See*** September 16, 2022 *pro se* PCRA Petition Exhibit F2. Even if this assertion is true, [Appellant] failed to take any action regarding his phone records until June 29, 2022, when he sent the Department of Corrections' ("DOC") Office of Open Records a request for his phone records. While [Appellant] did send the DOC's Right-to-Know-Office a letter in March of 2016, [Appellant] only requested a copy of his discovery and did not request his phone records. ***See*** September 16, 2022 *pro se* PCRA Petition Exhibits B1-B3.

(PCRA Court Opinion at 6-7). We agree with the PCRA court's analysis that Appellant has failed to satisfy the governmental interference exception where Appellant has not shown there was any government action which prevented Appellant from bringing this claim sooner. ***See Staton, supra***.

Additionally, the PCRA court evaluated Appellant's reliance on the newly-discovered facts exception as follows:

> [Appellant's] claim that Det. Williams' November 21, 2019 indictment satisfies the newly-discovered fact exception for his claims that Det. Williams falsified evidence and that Det. Williams' indictment is after-discovered evidence, fails because he first learned about the indictment on February 25, 2020 [by his own admission] and did not file a PCRA petition within one year of when the claim could have been presented.
>
> [Appellant's] claim that Summer Morgan's July 28, 2022 affidavit satisfies the newly-discovered fact exception fails because he failed to show that he exercised due diligence. On January 13, 2010, Robert Bluefort was interviewed and provided a statement in which he stated that Appellant and

constitutional right which applies retroactively." (PCRA Court Opinion at 7). We agree with the PCRA court that Appellant's reliance on ***Bradley*** affords him no relief. ***See Johnson, supra***. Therefore, Appellant's current PCRA petition remains time barred. Accordingly, we affirm.

Order affirmed.

Judgment Entered.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 8/24/2023

APPENDIX B

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

COMMONWEALTH OF PENNSYLVANIA	: CP-51-CR-0009615-2012
v.	:
QENTIN SALMOND	:

ORDER AND OPINION

McDermott, J. **November 23, 2022**

Procedural History

On May 7, 2012, the Petitioner, Qentin Salmond, was arrested and charged with Murder and related offenses. On March 5, 2014, the Petitioner and his co-defendant Jamil Banks appeared before this Court and elected to be tried by a jury. On March 12, 2014, the jury convicted the Petitioner of Third-Degree Murder and Conspiracy to Commit Murder. On July 28, 2014, this Court imposed a twenty to forty year term of imprisonment for Third-Degree Murder, and a consecutive five to ten year term of imprisonment for Conspiracy to Commit Murder, for a total sentence of twenty-five to fifty years of imprisonment. [1]

The Petitioner appealed and, on October 30, 2015, the Superior Court affirmed his judgment of sentence. The Petitioner did not file a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania.

On July 5, 2016, the Petitioner filed a timely *pro se* Post-Conviction Relief Act ("PCRA") petition, his first. On June 29, 2017, the Petitioner, through appointed PCRA counsel,

[1] In CP-51-CR-0009618-2012, the third co-defendant, Bernard Salmond, was convicted of Third-Degree Murder and Conspiracy to Commit Murder and later sentenced to a total sentence of eighteen to thirty-six years of imprisonment. Banks was convicted of Third-Degree Murder, Conspiracy to Commit Murder, and related gun offenses and later sentenced to a total sentence of thirty to sixty years of imprisonment.

APPENDIX - B

filed an amended petition. On November 2, 2017, after the Commonwealth filed a response, this Court granted the Petitioner an evidentiary hearing. On February 20, 2018, after presiding over an evidentiary hearing, this Court dismissed the petition. The Superior Court upheld this Court's dismissal on January 23, 2019 and the Pennsylvania Supreme Court denied the Petitioner's Petition for Allowance of Appeal on July 8, 2019.

On September 16, 2022, the Petitioner filed the instant *pro se* PCRA petition, his second. On October 24, 2022, this Court issued a Notice of Intent to Dismiss pursuant to Pa.R.Crim.P. 907. On November 3, 2022, the Petitioner responded to this Court's 907 Notice.

Facts

In its March 28, 2018 1925(a) Opinion, this Court summarized the facts as follows:

> On April 12, 2008, at about 12:30 p.m., Joan Hill was working at an insurance office located at 5637 Chew Avenue when she saw a blue Lincoln town car park with the engine running on Woodlawn Avenue. A man, later identified as the Petitioner, dressed in women's Muslim clothing exited the vehicle. Hill believed the man was going to rob Skyline Restaurant, located around the corner, so she called 9-1-1 and gave the license plate number of the vehicle.
>
> At around noon that day, Kerron Denmark and Kenneth Wiggins went to Skyline Restaurant and Wiggins ordered food. Immediately after they left the restaurant with Wiggins carrying his food, a man approached them asking for marijuana. As Denmark and Wiggins were walking down the street someone yelled "don't f'ing move." Denmark heard gunshots and ran away.
>
> On April 12, 2008, at 12:44 p.m., while on routine patrol, Police Officer Christopher Mulderrig was flagged down by a man on the street and told there had been a shooting about two blocks away. When Officer Mulderrig arrived at 5643 Chew Avenue, he observed a male, later identified as Wiggins, lying in the street with a gunshot wound to the chest. Wiggins subsequently died from this gunshot to his chest.
>
> After the murder, Detective Thorsten Lucke recovered surveillance video from Skyline Restaurant. The surveillance video showed Wiggins and Kerron Denmark enter Skyline Restaurant. While the men are inside the restaurant, a vehicle drove by on Chew Avenue and turned left at the corner. Co-Defendant Jamil Banks and the Petitioner, wearing women's Muslim clothing, emerge from the area where the car had turned from Chew Avenue. The Petitioner

and Banks walked towards Skyline Restaurant. The Petitioner stopped in an alley while Banks enters the restaurant. Banks buys a bottle of soda, leaves the restaurant, and stood with the Petitioner in the alley, out of sight of the camera. After Wiggins gets his food, he and Denmark left the restaurant and walked down the street. Banks followed closely behind Wiggins and Denmark while the Petitioner followed farther back. The Petitioner and Banks confronted Wiggins and Denmark and Wiggins falls to the ground. Quickly thereafter everyone ran away.

Police Officer Joanne Gain of the Crime Scene Unit recovered two .22 caliber fired cartridge casings ("FCCs"), a Nike Air Jordan sneaker, and a Mountain Dew bottle from the murder scene. Officer Gain tested the Mountain Dew bottle for fingerprints and DNA. According to Police Officer John Cannon, an expert in firearms identification, these two .22 caliber FCCs were fired from the same unrecovered firearm. The bullet recovered from the decedent's body and the FCCs were not fired from the same firearm.

On April 14, 2008, at about 9:00 p.m., an unlicensed blue Lincoln town car was found on fire in the area of Tenth Street and Chew Avenue. Lieutenant Rodney Wright of the Philadelphia Fire Department determined that the vehicle was burned intentionally.

On April 15, 2008, Charles Hayward gave a statement to police. Hayward explained that in February he had sold the blue Lincoln town car that Hill had called in to 9-1-1 to Bernard Salmond, the Petitioner's brother. According to Hayward, about a week previously, Wiggins had robbed the Petitioner after they had been gambling.

On April 17, 2008, Richard Hack, a friend of Wiggins, gave a statement to police. Hack explained that two days before the murder, the Petitioner, Wiggins, and himself were gambling. The Petitioner] and Wiggins argued about a gambling debt and then Wiggins choked the Petitioner and took $1,000 from him. For the next couple of nights, the Petitioner and his friends were in the area looking for Wiggins.

On January 13, 2010, Robert Bluefort told police that about three weeks after the murder, the Petitioner confessed to him that he shot Wiggins. According to the Petitioner, he had to shoot or be shot. Bernard Salmond told Bluefort that the police had questioned Hayward because the car that was used in the murder was in his name. Bluefort and Bernard Salmond then discussed burning the vehicle. Bernard Salmond stayed with Bluefort for about a month after the murder.

Banks was identified at trial by Michael Miller. Miller, who had interacted with Banks on many prior occasions, identified Banks from the surveillance video from Skyline Restaurant.

According to Halim Mackey and Andrea Williams, experts in latent print examination, Banks's fingerprints from his right middle finger and right ring finger were found on the Mountain Dew bottle recovered at the scene. An examination conducted through the AFIS database confirmed these findings.

The Petitioner testified that before the murder he was gambling with Hack, Wiggins, and a couple other individuals from the neighborhood. Wiggins won and there was a disagreement over payment. The Petitioner denied killing Wiggins or conspiring with anyone else to do so. The Petitioner presented evidence that he had an excellent reputation for peacefulness.

Banks presented testimony from Laurie Citino, an expert in DNA analysis and comparison. On May 31, 2012, Citino examined the swab taken from the Mountain Dew bottle. Citino was able to get DNA results from one marker, which would be able to include, but not match, or exclude an individual as providing the DNA. Citino was never given a DNA sample from Banks to compare to the sample taken from the Mountain Dew bottle.

1925(a) Opinion at * 1–3 (October 30, 2015) (non-precedential opinion).

Discussion

The Petitioner raises the following issues for review:

1.) The Third-Degree Murder and Conspiracy statutes are unconstitutionally vague.
2.) The evidence was insufficient to sustain his convictions.
3.) The Commonwealth committed a *Brady* violation when it failed to disclose Robert Bluefort's deal and committed misconduct when it allowed Bluefort to commit perjury while testifying about his deal.
4.) This Court erred when it instructed the jury about Conspiracy and Third-Degree Murder, and it imposed an illegal sentence because Conspiracy is not cognizable, there is no accomplice liability for Third-Degree Murder, and the Conspiracy and Third-Degree Murder charges merge.
5.) The Commonwealth committed a *Brady* violation when it withheld his phone records.
6.) Trial counsel was ineffective when she failed to call Leonard Weal as a witness at trial, failed to obtain his phone records to establish his alibi, failed to file a post-sentence motion, filed an inadequate brief in Superior Court, failed to communicate, and delayed in providing him with discovery.
7.) PCRA counsel was ineffective for failing to communicate, provide him with the Notice of Intent to Dismiss, transcripts, and docket sheets, secure funds for an investigator, raise issues in his *pro se* petition in an amended petition, and certify a witness.
8.) Detective Nathan Williams falsified fingerprint evidence.

9.) Detective Williams' indictment is after-discovered evidence, which entitles him to a new trial.

10.) The July 28, 2022 Summer Morgan affidavit is after-discovered evidence, which entitles him to a new trial.

11.) The Petitioner also attempts to preserve the right to DNA testing and request new fingerprint analysis of the Mountain Dew bottle.

Petitioner raised no new claims in his Response to this Court's 907 notice.

Before this Court can consider the merits of Petitioner's claims, it must address the timeliness of his petition, because PCRA time limitations implicate this Court's jurisdiction. A PCRA petition, including a second or subsequent petition, must be filed within one year of the date that the judgment of sentence becomes final. 42 Pa.C.S. § 9545(b)(1). "[A] judgment becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review." *Commonwealth v. Nedab*, 195 A.3d 957, 960 (Pa. Super. 2018); 42 Pa.C.S. § 9545(b)(3). A final order of the Superior Court is any order that concludes an appeal, and a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania must be filed within thirty days after the entry of the Superior Court Order. Pa.R.A.P. 1112; Pa.R.A.P. 1113.

The time requirement is mandatory and jurisdictional in nature, and a trial court cannot ignore it in order to reach a petition's merits. *Commonwealth v. Cox*, 146 A.3d 221, 227 (Pa. 2016) (*citing Commonwealth v. Jones*, 54 A.3d 14, 16 (Pa. 2012)). An untimely petition renders the court without jurisdiction to afford relief. *Commonwealth v. Spotz*, 171 A.3d 675, 678 (Pa. 2017)).

The instant petition is facially untimely. Petitioner's judgment of sentence became final on November 30, 2015, thirty days after the period to file a Petition for Allowance of Appeal expired. Petitioner had until November 29, 2016 to file a timely PCRA petition. The instant petition was filed on August 27, 2021, five years, ten months, and eighteen days after the period to seek review expired.

A PCRA court has jurisdiction to review collateral claims filed beyond the one-year limit if a petitioner alleges and proves any of the three limited exceptions under 42 Pa.C.S. § 9545(b)(1)(i)–(iii):

> (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. § 9545(b)(1). A petition invoking one of the exceptions must be filed within one year of the date the claim could have first been presented, and a petitioner must plead and prove that he has met this requirement. *Commonwealth v. Peterson*, 192 A.3d 1123, 1125 (Pa. 2018); 42 Pa.C.S. § 9545(b)(2).

Claims one through four fail because Petitioner fails to allege any timeliness exception. *Id.* Nothing in the Petitioner's Response to this Court's 907 Notice cured this failure.[2]

Petitioner fails to prove that the government interference exception applies to his fifth claim, the alleged *Brady* violation, because there is no evidence that the Commonwealth obtained his phone records or that he exercised due diligence. To qualify for the government interference exception, a petitioner needs to establish that his failure to previously raise the claim was the result

[2] Petitioner's attempt to raise the "Fundamental Miscarriage of Justice Exception" fails because it is not a timeliness exception for PCRA.[2] A claim that a sentence is illegal must still be timely or meet an exception under the PCRA to obtain relief. *Commonwealth v. Whiteman*, 204 A.3d 448 (Pa. Super. 2019).

of interference by government officials, and the information could not have been obtained by the exercise of due diligence. *Commonwealth v. Williams*, 168 A.3d 97, 106 (Pa. 2017) (*citing Commonwealth v. Abu-Jamal*, 941 A.2d 1263, 1268 (Pa. 2008)).

Petitioner provides no evidence that the Commonwealth obtained his phone records. A May 20, 2008 activity sheet indicating that Det. Williams provided Det. Dunlap with information to apply for a search warrant is insufficient to show the Commonwealth obtained the phone records or interfered with Petitioner's ability to obtain his records.

Petitioner did not exercise due diligence because he did not attempt to acquire his records until over eight years after his conviction. In his Response to this Court's 907 notice, Petitioner alleges that he spoke with trial counsel prior to trial about obtaining his phone records but provides no documentation to support this assertion other than a copy of the May 20, 2008 Activity Sheet with a handwritten note which says "Cell phone records – GPS Can tell where people are." *See* September 16, 2022 *pro se* PCRA Petition Exhibit F2. Even if this assertion is true, the Petitioner failed to take any action regarding his phone records until June 29, 2022, when he sent the Department of Corrections' ("DOC") Office of Open Records a request for his phone records. While Petitioner did send the DOC's Right-to-Know-Office a letter in March of 2016, Petitioner only requested a copy of his discovery and did not request his phone records. *See* September 16, 2022 *pro se* PCRA Petition Exhibits B1-B3.

Claims six and seven, Petitioner's claims of trial and PCRA counsel ineffectiveness, are untimely because *Commonwealth v. Bradley,* 261 A.3d 381 (Pa. 2021) did not assert a new constitutional right which applies retroactively.

To qualify for the newly-discovered fact exception, a petitioner needs to establish that the facts forming the basis of the claim were unknown to him and could not have been obtained by the exercise of due diligence. *Commonwealth v. Burton*, 158 A.3d A.3d, 618, 629 (Pa. 2017).

Petitioner's eighth claim that Det. Williams' November 21, 2019 indictment satisfies the newly-discovered fact exception for his claims that Det. Williams falsified evidence and that Det. Williams' indictment is after-discovered evidence, fails because he first learned about the indictment on February 25, 2020 and did not file a PCRA petition within one year of when the claim could have first been presented.

Petitioner's ninth claim that Summer Morgan's July 28, 2022 affidavit satisfies the newly-discovered fact exception fails because he failed to show that he exercised due diligence. On January 13, 2010, Robert Bluefort was interviewed and provided a statement in which he stated that the Petitioner and Bernard Salmond ("Bernard"), Petitioner's brother and co-defendant, confessed to the murder and that he suggested burning Bernard's car around Fern Rock Transportation Center, in Philadelphia. N.T. 3/10/2014 at 22, 26, 29. Bluefort also stated that Bernard stayed at his house for "a good month or so after the murder." *Id.* at 29. At trial, Bluefort did not recall his statement.

On July 28, 2022, Summer Morgan, the mother of Bluefort's children, signed an affidavit stating that Bernard Salmond never lived or stayed at Bluefort's house after the murder in 2008 because she lived with Bluefort from 2007 to 2009. Petitioner makes a boilerplate claim that that he exercised due diligence, so the claim is untimely and fails.

Even if the claim were timely, the claim would still fail because the affidavit would be used solely to impeach Bluefort's credibility. Additionally, the affidavit would likely not result in a different verdict because Bluefort did not recall his statement at trial and the affidavit would only

contradict Bluefort's statement that Bernard stayed with him after the murder, not his statement that the Petitioner and Bernard confessed to the murder or that he suggested burning Bernard's car.

Petitioner's attempt to preserve the right to DNA testing on the Mountain Dew bottle found at the scene fails because his request is boilerplate and fails to allege any of the requirements under 42 Pa.C.S. §9543.1.

Petitioner's request for new fingerprint analysis is denied because he provides no evidence that the fingerprint analysis at trial was incorrect. At trial, an expert latent fingerprint examiner testified that the co-defendant's fingerprints matched the latent fingerprints recovered from the Mountain Dew bottle recovered from the scene and that the previous examiner erred when he failed to find a match. N.T. 3/07/2014 at 39, 49-50. The expert's conclusion was peer-reviewed twice. *Id.* at 39. Mere speculation that Det. Williams falsified fingerprint evidence because a previous examiner failed to find a match does not entitle the Petitioner to additional fingerprint analysis.

For the foregoing reasons, the instant petition is DENIED. The Petitioner is hereby notified that he has thirty (30) days from the date of this Order and Opinion to file an appeal with the Superior Court.

BY THE COURT,

Barbara A. McDermott, J

Commonwealth v. Qentin Salmond, CP-51-CR-0009615-2012

PROOF OF SERVICE

I hereby certify that I am this day serving the foregoing filing upon the person(s), and in the manner indicated below, which service satisfies the requirements of Pa. R. Crim. P. 114:

Philadelphia District Attorney's Office
Three South Penn Square
Philadelphia, PA 19107
Attn: Tracey Kavanagh

Type of Service: **Inter-office Mail**

Qentin Salmond
LQ6678
SCI Fayette
50 Overlook Drive
LaBelle, PA 15450

Type of Service: **Certified Mail**

Dated: November 23, 2022

Anna Ryan
Judicial Clerk to the
Honorable Barbara A. McDermott

APPENDIX C

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA, Respondent v. QUENTIN M. SALMOND, Petitioner	:	No. 323 EAL 2023 Petition for Allowance of Appeal from the Order of the Superior Court

ORDER

PER CURIAM

AND NOW, this 20th day of February, 2024, the Petition for Allowance of Appeal is **DENIED.**

A True Copy Steven Rothermel, Esquire
As Of 02/20/2024

Attest:
Deputy Prothonotary
Supreme Court of Pennsylvania

APPENDIX C

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