

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Abu-Jamal

833 A.2d 719 (Pa. 2003) · No. 113 MAP 2002 · Decided October 8, 2003

SUMMARY

The Supreme Court of Pennsylvania affirmed the dismissal of Mumia Abu-Jamal’s second petition under the Post Conviction Relief Act as untimely. The court held that the PCRA’s time limits are jurisdictional, that the asserted exceptions did not apply, and that the petitioner could not obtain review through equitable tolling or an independent writ of habeas corpus. The court also concluded that the judicial-bias claim had been previously litigated.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Eakin; Cappy, C.J.; Castille, J.; Nigro, J.; Newman, J.; Saylor, J.; Eakin, J.; Lamb, J.
JURISDICTION	Pennsylvania
DECIDED	October 8, 2003
DOCKET	113 MAP 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the order of the Philadelphia Court of Common Pleas dismissing appellant's second petition under the Post Conviction Relief Act as untimely and denying relief without a hearing.
STANDARD OF REVIEW	Whether the PCRA court's findings are supported by the record and free of legal error. The court first reviewed de novo the jurisdictional question whether the petition satisfied the PCRA's timeliness requirements.
PRECEDENTIAL VALUE	Published Pennsylvania Supreme Court opinion; precedential.
PARTIES	Mumia Abu-Jamal, a/k/a Wesley Cook v. Commonwealth of Pennsylvania

TOPICS

- state post-conviction relief
- successive petitions
- post-conviction relief
- habeas corpus
- appellate procedure

PRACTICE AREAS

Pennsylvania post-conviction criminal procedure

capital litigation

appellate procedure

habeas corpus

QUESTIONS PRESENTED

1. Whether appellant's second PCRA petition was timely under 42 Pa.C.S. § 9545(b).
2. Whether alleged ineffective assistance or governmental interference by prior defense counsel satisfied the governmental-interference exception to the PCRA time bar.
3. Whether alleged newly discovered evidence concerning counsel's performance, Arnold Beverly's confession, or judicial bias satisfied the after-discovered-evidence exception.
4. Whether the PCRA court improperly dismissed the petition without a hearing by considering the merits of the underlying claims.
5. Whether the PCRA court could equitably toll the PCRA's jurisdictional time limit because of alleged judicial bias.
6. Whether Pennsylvania common-law habeas corpus remained available to review claims barred by the PCRA.

HOLDINGS

1. The PCRA's one-year filing requirement is jurisdictional and applies to second and subsequent petitions. Because appellant's judgment became final on June 10, 1991, and his second petition was filed on July 3, 2001, the petition was untimely absent a statutory exception.
2. Prior defense counsel's alleged failure to investigate or present claims does not qualify as unconstitutional governmental interference under the PCRA.
3. Allegations that prior counsel suppressed claims or evidence, or that counsel's alleged conflict was discovered only after new counsel reviewed the case, do not establish the after-discovered-evidence exception.
4. A petitioner may not use alleged new evidence or a new theory to relitigate a judicial-bias issue that was previously raised and decided in a collateral proceeding.
5. The PCRA's jurisdictional time limit is not subject to equitable tolling except to the extent the statutory exceptions provide for an extension.
6. Pennsylvania habeas corpus remains an independent remedy only for claims for which the PCRA provides no remedy; it cannot be used to evade the PCRA time bar when the claims fall within the PCRA's scope.

KEY QUOTATIONS

“The PCRA's timeliness requirements are jurisdictional in nature and a court may not address the merits of the issues raised if the PCRA petition was not timely filed.” (at 723)

“Such a contorted notion cannot be accepted.” (at 725)

“Unlike a statute of limitations, a jurisdictional time limitation is not subject to equitable principles such as tolling except as provided by statute.” (at 727)

“The action established in this subchapter shall be the sole means of obtaining collateral relief and encompassing all other common law and statutory remedies for the same purpose ..., including habeas corpus” (at 728)

FACTUAL BACKGROUND

Mumia Abu-Jamal was arrested after Philadelphia Police Officer Daniel Faulkner was shot and killed on December 9, 1981. Abu-Jamal was convicted of first-degree murder and related offenses in 1982 and received a death sentence in 1983. In his second PCRA petition, filed in 2001, he relied principally on alleged ineffective assistance by prior PCRA counsel, Arnold Beverly's purported confession, and an alleged racially biased statement by the trial judge. The petition was filed more than ten years after the judgment became final.

PROCEDURAL HISTORY

Appellant was convicted of first-degree murder and related offenses in 1982 and sentenced to death in 1983. His judgment of sentence became final on June 10, 1991, after direct review. A first PCRA petition filed in 1995 was denied, and the Pennsylvania Supreme Court denied PCRA relief; the United States Supreme Court denied certiorari in 1999. Appellant filed a second PCRA petition on July 3, 2001, asserting ineffective assistance, newly discovered evidence, judicial bias, and related claims. The PCRA court concluded the petition was untimely and lacked jurisdiction, and the Pennsylvania Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Breakiron, 566 Pa. 323, 781 A.2d 94, 97 n. 4 (2001)
- Commonwealth v. Murray, 562 Pa. 1, 753 A.2d 201, 203 (2000)
- Commonwealth v. Fahy, 558 Pa. 313, 737 A.2d 214, 222-224 (1999)
- Commonwealth v. Peterkin, 554 Pa. 547, 722 A.2d 638, 641, 643 (1998)
- Commonwealth v. Banks, 556 Pa. 1, 726 A.2d 374, 376 (1999)
- Commonwealth v. Crawley, 559 Pa. 9, 739 A.2d 108, 109 (1999)
- Commonwealth v. Pursell, 561 Pa. 214, 749 A.2d 911, 916-917 (2000)
- Commonwealth v. Yarris, 557 Pa. 12, 731 A.2d 581, 587 (1999)
- Bell v. Cone, 535 U.S. 685, 697 (2002)
- Commonwealth v. Howard, 567 Pa. 481, 788 A.2d 351, 355 (2002)
- Commonwealth v. Abu-Jamal, 553 Pa. 485, 720 A.2d 79, 89-90 (1998)
- Commonwealth v. Bond, 572 Pa. 588, 819 A.2d 33, 39 (2002)
- Commonwealth v. Bracey, 568 Pa. 264, 795 A.2d 935, 939 & n. 2 (2001)

- Commonwealth v. Chester, 557 Pa. 358, 733 A.2d 1242 (1999)
- Commonwealth v. Hall, 565 Pa. 92, 771 A.2d 1232 (2001)
- Commonwealth v. Lantzy, 558 Pa. 214, 736 A.2d 564 (1999)
- Lines v. Larkins, 208 F.3d 153, 164 (3d Cir. 2000)
- Terry v. Gillis, 93 F.Supp.2d 603, 610 n. 10 (E.D. Pa. 2000)
- Abu-Jamal v. Horn, 2001 WL 827468, *1 (E.D. Pa. 2001)
- Abu-Jamal v. Horn, 2001 WL 1609690, *130 (E.D. Pa. 2001)

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