

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

James Thomas Smith v. Eric Armel, et al.

Smith v. Armel · No. 2:22-cv-00973 · Decided March 31, 2026

SUMMARY

The United States District Court for the Western District of Pennsylvania adopted a magistrate judge’s Report and Recommendation and dismissed James Thomas Smith’s habeas petition. The court held that Smith’s pro se filing while represented by counsel was a legal nullity and that his unexhausted ineffective-assistance claim concerning initial PCRA counsel could not establish cause to excuse procedural default under *Martinez v. Ryan*.

CASE DETAILS

COURT	United States District Court for the Western District of Pennsylvania
WRITING FOR THE COURT	Cathy Bissoon; Patricia L. Dodge
JURISDICTION	United States District Court for the Western District of Pennsylvania
DECIDED	March 31, 2026
DOCKET	2:22-cv-00973
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal habeas petitioner objected to a magistrate judge's report and recommendation recommending dismissal of the petition, denial of each claim, and denial of a certificate of appealability. The district court conducted de novo review, adopted and supplemented the report and recommendation, granted respondents' motion to dismiss, dismissed the petition, and denied a certificate of appealability.
STANDARD OF REVIEW	De novo review of the magistrate judge's report and recommendation and the petitioner's objections.
PRECEDENTIAL VALUE	unpublished district court memorandum order
PARTIES	James Thomas Smith v. Eric Armel, et al.

TOPICS

- federal habeas corpus
- post-conviction relief
- default
- motions to dismiss
- appellate procedure

PRACTICE AREAS

federal habeas corpus

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether Smith's pro se motion filed in the Pennsylvania Superior Court while he was represented by counsel exhausted his claims or avoided procedural default.
2. Whether alleged ineffective assistance by initial PCRA counsel could serve as cause to excuse procedural default when that ineffectiveness claim was never properly exhausted in state court.
3. Whether alleged ineffective assistance by appellate PCRA counsel could excuse the procedural default under *Martinez v. Ryan*.
4. Whether the magistrate judge's report and recommendation should be adopted and the habeas petition dismissed.

HOLDINGS

1. A pro se filing submitted by a state-court litigant who is represented by counsel is a legal nullity under Pennsylvania law and cannot present the merits of an issue or avoid federal habeas procedural default.
2. An ineffective-assistance claim asserted as cause for the procedural default of another claim is itself procedurally defaulted when it was not exhausted in state court, and such a default cannot excuse the underlying default.
3. *Martinez v. Ryan* does not excuse the procedural default at issue because the alleged ineffective assistance by initial PCRA counsel was itself unexhausted, and *Martinez* does not extend to attorney errors in appeals from initial-review collateral proceedings.
4. The report and recommendation was adopted as supplemented, respondents' motion to dismiss was granted, Smith's petition was dismissed, and a certificate of appealability was denied.

KEY QUOTATIONS

"In short, Petitioner's referenced pro se motion cannot avoid procedural default."

"Procedural default due to not placing initial PCRA counsel's purported ineffectiveness before the Superior Court cannot be excused by Petitioner blaming his appellate PCRA counsel for not raising that issue."

FACTUAL BACKGROUND

Smith sought federal habeas relief from a state-court judgment and asserted, among other matters, that he had exhausted claims by filing a pro se motion in the Pennsylvania Superior Court while represented by counsel. The Superior Court treated that hybrid filing as improper and declined to consider its merits. Smith also asserted that ineffective assistance by initial post-conviction counsel should excuse procedural default of claims concerning trial counsel, but that claim was withdrawn in his Superior Court brief and was never presented to a Pennsylvania court.

PROCEDURAL HISTORY

The case was referred to Magistrate Judge Patricia L. Dodge under 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule of Civil Procedure 72. The magistrate judge recommended granting respondents' motion to dismiss and denying the habeas claims and a certificate of appealability. Smith timely objected, but the district court found the magistrate judge's reasoning thorough and sound, adopted the report and recommendation as supplemented, dismissed the petition, and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Commonwealth v. Smith, 283 A.3d 382, 382 (Pa. Super. 2022)
- Commonwealth v. Williams, 151 A.3d 621, 623 (Pa. Super. 2016)
- Shinn v. Ramirez, 596 U.S. 366, 378 (2022)
- Martinez v. Ryan, 566 U.S. 1, 16 (2012)
- Edwards v. Carpenter, 529 U.S. 446, 453 (2000)
- Commonwealth v. Bradley, 261 A.3d 381, 401 (Pa. 2021)
- Coleman v. Thompson, 501 U.S. 722, 755 (1991)
- O'Sullivan v. Boerckel, 526 U.S. 838, 848 (1999)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA JAMES THOMAS SMITH,)) Petitioner,) No. 2:22-cv-00973) v.) Chief Judge Cathy Bissoon) Magistrate Judge Patricia L. Dodge ERIC ARMEL, et al.,)) Respondents.) MEMORANDUM ORDER This case has been referred to United States Magistrate Judge Patricia L. Dodge in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On February 13, 2026, the Magistrate Judge issued a Report (Doc. 29) (the “R&R”) recommending that the Court grant Respondents’ Motion to Dismiss (Doc. 23), deny each claim raised in the Petition (Doc. 1) and deny a certificate of appealability as to each claim. Petitioner timely filed Objections to the R&R (Doc. 30) (the “Objections”).

Having conducted a de novo review and found the Magistrate Judge’s reasoning to be thorough and sound, the Court will adopt the R&R, grant Respondents’ Motion and deny a certificate of appealability. For the sake of clarity, the Court augments the R&R as follows: First, Petitioner claims that he exhausted some of his procedurally defaulted claims before the Superior Court of Pennsylvania when he filed a “Motion to Present Layered Ineffective Assistance of Counsel Claims Against Current and Previous Counsel” in that court.

Objections ¶¶ 1, 2, 4, 5; see also Reply Mem. (Doc. 27) at 1-3. Petitioner neglected to mention in his Reply—and the Objections—that the identified motion was filed by Petitioner pro se at the same time that he was represented by counsel. See *Commonwealth v. Smith*, 283 A.3d 382, 382 (Pa. Super. 2022).

Therefore, that filing was a legal nullity under Pennsylvania law and could not have presented the merits of any issue. As the Superior Court wrote: Appellant recently filed with this Court a pro se application for relief, seeking to “present layered ineffective assistance of counsel claims against current and previous counsel.”...

As Appellant is currently represented by Attorney Younkens, his pro se filing is improper. Hybrid representation is not permitted. *Commonwealth v. Williams*, 151 A.3d 621, 623 (Pa. Super. 2016) (when an appellant is represented by counsel, “pro se motions have no legal effect and, therefore, are legal nullities.”).

Thus, we may not consider the merits of Appellant’s pro se application for relief. *Id.* In short, Petitioner’s referenced pro se motion cannot avoid procedural default. *Shinn v. Ramirez*, 596 U.S. 366, 378 (2022) (“[T]o allow a state prisoner simply to ignore state procedure on the way to federal court would defeat the evident goal of the exhaustion rule.”).

Second, to the extent that Petitioner suggests that his ineffective-assistance-of-trial- counsel claims should be excused from procedural default pursuant to *Martinez v. Ryan*, 566 U.S. 1 (2012), the instant case’s procedural history forecloses that argument. “[A]n ineffective- assistance-of-counsel claim asserted as cause for the procedural default of another claim can itself be procedurally defaulted” when not exhausted in state court.

Edwards v. Carpenter, 529 U.S. 446, 453 (2000). Petitioner’s claim that his initial PCRA counsel was ineffective was never presented to any Pennsylvania state court, despite Pennsylvania law allowing Petitioner, who was represented by new counsel, to argue that claim as part of the standard appellate review process of the PCRA petition’s denial. See *Commonwealth v. Bradley*, 261 A.3d 381, 401 (Pa.

2021) (“[W]e hold that a PCRA petitioner may, after a PCRA court denies relief, and after obtaining new counsel or acting pro se, raise claims of PCRA counsel’s ineffectiveness at the first opportunity to do so, even if on appeal.”). Rather than challenge initial PCRA counsel’s performance in Superior Court, claims challenging initial PCRA counsel’s performance were completely “withdrawn” by PCRA appellate counsel, who included the following statement in Petitioner’s brief to the Superior Court: [C]laims that Attorney Galacek[1] raised that counsel Karissa N. Murphy, Esquire[2] provided ineffective assistance by failing to investigate, marshal evidence for[] and present evidence for the issues now raised is [sic] withdrawn at this time as there was no hearing on such matter and the claims were not properly raised.

Further, upon review of the record, there does not appear to be a basis for such claims. Doc. 28 at 8. Petitioner's claim that initial PCRA counsel was ineffective was, therefore, not exhausted, procedurally defaulted and cannot excuse his failure to raise aspects of trial counsel's now-alleged ineffectiveness during the initial PCRA stage of post-conviction litigation.

See *Edwards*, 519 U.S. at 453 ("The purposes of the exhaustion requirement... would be utterly defeated if the prisoner were able to obtain federal habeas review simply by 'letting the time run' so that state remedies were no longer available." (punctuation omitted) (quoting *O'Sullivan v. Boerckel*, 526 U.S. 838, 848 (1999))); see also 28 U.S.C. § 2254(b)(1) ("An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—(A) the applicant has exhausted the remedies available in the courts of the State...."); 28 U.S.C. § 2254(c) ("An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.").

Procedural default due to not placing initial PCRA counsel's purported ineffectiveness before the Superior Court cannot be excused by Petitioner blaming his appellate PCRA counsel for not raising that issue. *Martinez*, 566 U.S. at 16 ("The rule of *Coleman* governs in all but the limited circumstances recognized here.

The holding in this case does not concern attorney errors in other kinds of proceedings, including appeals from initial-review collateral proceedings...."); accord *Coleman v. Thompson*, 501 U.S. 722, 755 (1991) ("We 1 Prior PCRA appellate counsel. 2 Initial PCRA counsel. reiterate that counsel's ineffectiveness will constitute cause only if it is an independent constitutional violation....

[T]here is no right to counsel in state collateral proceedings."). Accordingly, after a de novo review of the pleadings and documents in this case, together with the R&R and the Objections thereto, it is ORDERED that James Thomas Smith's Petition is DISMISSED, a certificate of appealability is DENIED and the R&R is ADOPTED as the Opinion of the District Court, as supplemented herein.

IT IS SO ORDERED. March 31, 2026 s/Cathy Bissoon Cathy Bissoon Chief United States District Judge cc (via First-Class U.S. Mail): James Thomas Smith NJ 0237 SCI Fayette 50 Overlook Drive LaBelle, PA 15450 cc (via ECF email notification): All Counsel of Record