

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Scarborough

619 Pa. 353 (2013) (Pa.) · Decided March 22, 2013

SUMMARY

The Pennsylvania Supreme Court held that an order granting or denying a motion for post-conviction DNA testing under 42 Pa.C.S. § 9543.1 is a final order immediately appealable under Pa.R.A.P. 341. The Court concluded that DNA-testing litigation is separate from any later PCRA petition based on the test results and reversed the Superior Court’s order quashing the Commonwealth’s appeal. The matter was remanded for consideration of the merits of the Commonwealth’s appeal.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Todd; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Baer; Justice McCaffery
JURISDICTION	Pennsylvania
DECIDED	March 22, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Commonwealth sought review of the Superior Court’s order quashing as interlocutory its appeal from a trial-court order granting Scarborough’s motion for post-conviction DNA testing under 42 Pa.C.S.A. § 9543.1.
STANDARD OF REVIEW	The appealability and finality of the DNA-testing order presented a question of law reviewed de novo, with plenary scope of review.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Commonwealth of Pennsylvania v. Milton Scarborough

TOPICS

[appellate procedure](#)[final judgment rule](#)[interlocutory appeal](#)[post-conviction relief](#)[statutory interpretation](#)

PRACTICE AREAS

[appellate procedure](#)[criminal procedure](#)[post-conviction relief](#)[statutory interpretation](#)

QUESTIONS PRESENTED

1. Whether a trial-court order granting a motion for post-conviction DNA testing under 42 Pa.C.S.A. § 9543.1 is a final order immediately appealable under Pa.R.A.P. 341.
2. Whether the Commonwealth's jurisdictional challenge was waived by failing to respond to Scarborough's motion to quash in the Superior Court.

HOLDINGS

1. An order granting or denying a motion for post-conviction DNA testing under 42 Pa.C.S.A. § 9543.1 is a final order under Pa.R.A.P. 341 because it finally disposes of the sole claim presented in the DNA-testing proceeding. The Commonwealth may immediately appeal such an order.
2. The Commonwealth did not waive its challenge to the Superior Court's jurisdiction because the appealability of an order implicates subject-matter jurisdiction, which is not waived and may be considered sua sponte.

KEY QUOTATIONS

“when the trial court enters an order either granting or denying the testing, the litigation under this section is at an end: the sole claim between the parties — the Commonwealth and the movant — has been addressed by the trial court and finally disposed of.” (609)

“The order of the Superior Court quashing the Commonwealth’s appeal is, therefore, reversed, and this matter is remanded to the Superior Court for consideration of the substantive merits of the issues raised in that appeal.” (611)

FACTUAL BACKGROUND

Scarborough was convicted of burglary, robbery, theft, conspiracy, and three counts of third-degree murder arising from the 1976 robbery and stabbing deaths of a mother and her two children. He sought DNA testing of a palm print from a lamp, victims' fingernail clippings, and a blood print found near the victims' bodies. The trial court granted testing after an evidentiary hearing, reasoning that the results could be exculpatory, particularly because trial testimony linked Scarborough to pulling down the lamp.

PROCEDURAL HISTORY

Scarborough's convictions and sentence were affirmed on direct appeal, and his earlier collateral challenge was unsuccessful. He later filed a PCRA petition and a separate motion for post-conviction DNA testing. The specially appointed trial judge granted the DNA-testing motion, but the Superior Court quashed the Commonwealth's appeal as interlocutory. The Supreme Court of Pennsylvania granted review and reversed the quashal order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded to the Superior Court to consider the substantive merits of the issues raised in the Commonwealth's appeal. The Supreme Court relinquished jurisdiction.

CASES CITED

- Commonwealth v. Romolini, 384 Pa. Super. 117, 557 A.2d 1073 (1989)
- Commonwealth v. Williams, 909 A.2d 383, 384 n. 1 (Pa. Super. 2006)
- Commonwealth v. Williams, 35 A.3d 44, 50 (Pa. Super. 2011)
- Commonwealth v. Porter, 613 Pa. 510, 35 A.3d 4 (2012)
- Commonwealth v. White, 589 Pa. 642, 910 A.2d 648 (2006)
- Nationwide Mut. Ins. Co. v. Wickett, 563 Pa. 595, 763 A.2d 813 (2000)
- Ben v. Schwartz, 556 Pa. 475, 729 A.2d 547 (1999)
- Commonwealth v. Bryant, 566 Pa. 307, 780 A.2d 646 (2001)
- Geniviva v. Frisk, 555 Pa. 589, 725 A.2d 1209 (1999)
- Commonwealth v. Dennis, 580 Pa. 95, 859 A.2d 1270 (2004)
- Vaccone v. Syken, 587 Pa. 380, 899 A.2d 1103 (2006)
- Fried v. Fried, 509 Pa. 89, 501 A.2d 211 (1985)
- Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963)