

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Johnson

2026 Pa. Super. 32 · No. 877 EDA 2025 · Decided February 23, 2026

SUMMARY

The Pennsylvania Superior Court affirmed the dismissal of Marcus R. Johnson’s second PCRA petition as untimely. The court held that *Smith v. Arizona* did not recognize a new constitutional right for purposes of the PCRA’s timeliness exception and had not been held retroactive to collateral review. Because the petition did not satisfy the exception in 42 Pa.C.S. § 9545(b)(1)(iii), the court concluded it lacked jurisdiction to reach the merits of Johnson’s Confrontation Clause challenge.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Neuman, J.; Lazarus, P.J.; Stabile, J.
JURISDICTION	Pennsylvania Superior Court
DECIDED	February 23, 2026
DOCKET	877 EDA 2025
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Philadelphia County Court of Common Pleas dismissing Johnson's second PCRA petition as untimely and permitting appointed counsel to withdraw under the Turner/Finley procedure.
STANDARD OF REVIEW	Whether the PCRA court's determination is supported by the evidence of record and is free of legal error.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Marcus R. Johnson v. Commonwealth of Pennsylvania

TOPICS

- state post-conviction relief
- successive petitions
- appellate procedure
- sixth amendment
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Johnson's second PCRA petition was untimely under 42 Pa.C.S. § 9545(b)(1) and whether the new-retroactive-right exception in § 9545(b)(1)(iii) applied.
2. Whether *Smith v. Arizona* recognized a new constitutional right for purposes of § 9545(b)(1)(iii).
3. Whether *Smith v. Arizona* had been held to apply retroactively on collateral review before Johnson filed his petition.
4. Whether the Superior Court had jurisdiction to reach Johnson's Confrontation Clause challenge to the admission of the forensic pathology testimony.

HOLDINGS

1. Johnson's November 2024 second PCRA petition was untimely because his judgment of sentence became final on February 26, 2018, and he did not establish a statutory exception to the PCRA's one-year filing limit.
2. *Smith v. Arizona* did not recognize a new constitutional right; it clarified how previously established Confrontation Clause principles apply when an expert conveys an absent analyst's out-of-court statements as the basis for an opinion.
3. Johnson could not satisfy § 9545(b)(1)(iii) because *Smith* had not been held to apply retroactively to cases on collateral review before Johnson filed his petition.

KEY QUOTATIONS

“Thus, a petitioner must prove that there is a “new” constitutional right and that the right “has been held” by that court to apply retroactively.” (at 7)

*“Based on the plain language of *Smith*, we conclude the Court did not recognize a new constitutional right in that decision.” (at 13)*

*“In sum, Appellant has not demonstrated that *Smith* recognized a new constitutional right, or that it has been held to apply retroactively to cases on collateral review.” (at 14)*

FACTUAL BACKGROUND

At Johnson's jury trial, the Commonwealth presented forensic pathology testimony concerning the multiple gunshot wounds that killed his girlfriend. The jury convicted Johnson of first-degree murder and possessing an instrument of crime, and the court imposed a life-without-parole sentence. Johnson later challenged the admissibility of the medical examiner's testimony under the United States Supreme Court's decision in *Smith v. Arizona*.

PROCEDURAL HISTORY

Johnson was convicted by a jury of first-degree murder and possessing an instrument of crime and was sentenced to life imprisonment without parole. The Superior Court affirmed his judgment of sentence, and the Pennsylvania Supreme Court denied allowance of appeal. After a first PCRA proceeding was denied and affirmed, Johnson filed a second PCRA petition in November 2024, asserting that *Smith v. Arizona* rendered trial testimony inadmissible and satisfied the PCRA's new-retroactive-right exception. The PCRA court dismissed the petition as untimely, and the Superior Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Smith v. Arizona*, 602 U.S. 779 (2024)
- *Commonwealth v. Johnson*, 175 A.3d 375 (Pa. Super. 2017) (unpublished memorandum)
- *Commonwealth v. Johnson*, 175 A.3d 215 (Pa. 2017)
- *Commonwealth v. Johnson*, 241 A.3d 368 (Pa. Super. 2020) (unpublished memorandum)
- *Commonwealth v. Johnson*, 252 A.3d 596 (Pa. 2021)
- *Commonwealth v. Turner*, 544 A.2d 927 (Pa. 1988)
- *Commonwealth v. Finley*, 550 A.2d 213 (Pa. Super. 1988) (en banc)
- *Commonwealth v. Ragan*, 923 A.2d 1169, 1170 (Pa. 2007)
- *Commonwealth v. Bennett*, 930 A.2d 1264, 1267 (Pa. 2007)
- *Crawford v. Washington*, 541 U.S. 36 (2004)
- *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009)
- *Bullcoming v. New Mexico*, 564 U.S. 647 (2011)
- *Williams v. Illinois*, 567 U.S. 50 (2012)
- *Commonwealth v. Douglas*, 346 A.3d 825, 836 (Pa. Super. 2025)
- *Commonwealth v. Abdul-Salaam*, 812 A.2d 497, 501 (Pa. 2002)
- *Commonwealth v. Reid*, 235 A.3d 1124, 1160-61 (Pa. 2020)
- *Commonwealth v. Taylor*, *Commonwealth v. Taylor*, 283 A.3d 178, 187 (Pa. 2022)
- *Commonwealth v. Friday*, 90 A.2d 856, 859 (Pa. Super. 1952)
- *United States v. Johnson*, *United States v. Johnson*, 457 U.S. 537, 549 (1982)
- *Griffith v. Kentucky*, 479 U.S. 314 (1987)