

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Leroy Kenneth Thomas

2026 Pa. Super. 74 (Superior Court of Pennsylvania 2026) · No. 575 WDA 2025 · Decided April 17, 2026

SUMMARY

The Pennsylvania Superior Court vacated Leroy Kenneth Thomas’s April 29, 2025 revocation-of-probation sentence and remanded for reimposition of his October 25, 2021 sentence. The court held that the PCRA petition challenging the earlier sentence was untimely and did not satisfy a statutory exception, leaving the trial court without jurisdiction to resentence Thomas despite the earlier sentence’s asserted illegality. The opinion also discusses the PCRA time bar, attorney ineffectiveness as a newly discovered fact, and the distinction between partial and complete deprivation of appellate review.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Olson, J.; Dubow, J.; Bender, P.J.E.
JURISDICTION	Pennsylvania Superior Court
DECIDED	April 17, 2026
DOCKET	575 WDA 2025
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the April 29, 2025 judgment of sentence entered after revocation of probation and resentencing in the Court of Common Pleas of Allegheny County.
STANDARD OF REVIEW	The court independently reviewed whether the PCRA petition satisfied the jurisdictional time-bar and whether the PCRA court had jurisdiction to grant collateral relief. Because jurisdiction was lacking, the court did not reach the merits of the discretionary sentencing claim.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Leroy Kenneth Thomas v. Commonwealth of Pennsylvania

TOPICS

- state post-conviction relief
- post-conviction relief
- sentencing
- appellate procedure
- criminal procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

sentencing

appellate procedure

QUESTIONS PRESENTED

1. Whether Thomas's July 22, 2024 PCRA petition was timely under 42 Pa.C.S.A. § 9545(b), or qualified for the newly discovered facts exception based on alleged misinformation from former direct-appeal counsel.
2. Whether the PCRA court had jurisdiction to grant collateral relief and impose the April 29, 2025 revocation-of-probation sentence.
3. Whether the Superior Court could review Thomas's discretionary sentencing challenge to the April 29, 2025 sentence.

HOLDINGS

1. The PCRA petition was patently untimely, and Thomas failed to plead and prove the newly discovered facts exception because alleged misinformation from former direct-appeal counsel did not constitute a qualifying newly discovered fact.
2. The PCRA court lacked jurisdiction to grant collateral relief or conduct a new sentencing proceeding, making its order and the April 29, 2025 revocation-of-probation sentence null and void ab initio.
3. The court could not review the merits of Thomas's discretionary sentencing claim because the April 29, 2025 sentence was a legal nullity and could not support an appeal.

KEY QUOTATIONS

“Without jurisdiction, [courts] simply do not have legal authority to address the substantive claims” (at 10)

“The denial of counsel constitutes a form of ineffectiveness per se, pursuant to which prejudice must be presumed because the process itself has been rendered presumptively unreliable under the Sixth Amendment.” (at 14)

“the PCRA court’s decision to grant collateral relief and convene a new sentencing proceeding and the subsequent April 29, 2025 revocation-of-probation sentence are null and void ab initio because the PCRA court did not have jurisdiction to grant relief.” (at 18)

FACTUAL BACKGROUND

Thomas pleaded guilty in 2014 to involuntary deviate sexual intercourse with a child, indecent assault of a complainant under thirteen, sexual assault, and indecent assault without consent in Case CR-9076. Following a 2021 conviction for additional sexual offenses in Case CR-2243, the trial court revoked his probation in Case CR-9076 and imposed an aggregate sentence of seven to twenty years' incarceration followed by six years' probation, including mandatory probation and lifetime sex-offender registration. After his direct-appeal rights were reinstated, his appeal was quashed as untimely. He later filed a PCRA petition challenging the legality and discretionary aspects of the 2021 sentence, but the petition was filed more than one year after the judgment became final.

PROCEDURAL HISTORY

Thomas pleaded guilty in 2014 to several sexual offenses and was sentenced in Case CR-9076. After a later conviction in Case CR-2243, the trial court revoked his probation and resentenced him on October 25, 2021. The PCRA court reinstated his post-sentence and direct-appeal rights, but his resulting appeal was quashed as untimely. Thomas later filed an untimely PCRA petition asserting sentencing challenges and a newly discovered facts exception based on counsel's alleged misinformation. The PCRA court granted relief and resentenced him on April 29, 2025; the Superior Court vacated that sentence and the PCRA order and remanded for reimposition of the October 25, 2021 sentence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the April 29, 2025 revocation-of-probation sentence and the PCRA court's order granting collateral relief, and remand for reimposition of Thomas's October 25, 2021 revocation-of-probation sentence. Jurisdiction was relinquished.

CASES CITED

- Commonwealth v. Fantauzzi, 275 A.3d 986, 995, 997-998 (Pa. Super. 2022), appeal denied, 289 A.3d 41 (Pa. 2022)
- Commonwealth v. Fahy, 737 A.2d 214, 223 (Pa. 1999)
- Commonwealth v. Thomas, 304 A.3d 724, 2023 WL 4994485, at *1 (Pa. Super. filed Aug. 4, 2023) (unpublished memorandum)
- Commonwealth v. Wright, 846 A.2d 730, 734 (Pa. Super. 2004)
- Commonwealth v. Brown, 943 A.3d 264, 268 (Pa. 2008)
- Commonwealth v. McKeever, 947 A.2d 782, 786 (Pa. Super. 2008)
- Commonwealth v. Dehart, 730 A.2d 991, 994 n.2 (Pa. Super. 1999)
- Commonwealth v. Rivera, 324 A.3d 452, 467 (Pa. 2024)
- Commonwealth v. Reid, 235 A.3d 1124, 1143 (Pa. 2020)
- Commonwealth v. Spotz, 171 A.3d 675, 676, 678 (Pa. 2017)
- Commonwealth v. Brandon, 51 A.3d 231, 233-234 (Pa. Super. 2012)
- Commonwealth v. Peterson, 192 A.3d 1123, 1129-1132 (Pa. 2018)
- Commonwealth v. Gamboa-Taylor, 753 A.2d 780 (Pa. 2000)
- Commonwealth v. Bennett, 930 A.2d 1264, 1272-1274 (Pa. 2007)
- Commonwealth v. Rosado, 150 A.3d 425, 428-434 (Pa. 2016)
- Argersinger v. Hamlin, 407 U.S. 25 (1972)

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