The Supreme Court of Ohio

CASE ANNOUNCEMENTS

March 23, 2026

[Cite as *03/23/2026 Case Announcements #2*, 2026-Ohio-971.]

APPEALS NOT ACCEPTED FOR REVIEW

2025-1081. State v. Jackson.
Cuyahoga App. No. 114324, 2025-Ohio-2363.
Brunner, J., dissents, with an opinion.

BRUNNER, J., dissenting.

{¶ 1} This case presents important issues about how and when a criminal defendant can raise a postconviction argument that his counsel was ineffective for not investigating and fully presenting claims that relate to a serious mental illness that existed at the time of the criminal offenses. The criminal defendant in this case was sentenced to death, and our rules specifically provide that we may accept jurisdiction in cases involving postconviction death-penalty proceedings. *See* S.Ct.Prac.R. 7.01(B)(1)(d)(vi). This case also presents an issue of significant public interest, *see* S.Ct.Prac.R. 7.01(B)(1)(d)(iii), because state law precludes execution of a person who was significantly impaired by a serious mental illness at the time of the alleged offense, R.C. 2929.025, and further, the United States Supreme Court has held it unconstitutional to execute an intellectually disabled offender, *Atkins v. Virginia*, 536 U.S. 304, 321 (2002). This court's decision denying discretionary review in this case is extremely troubling because of its potential constitutional infirmity. I therefore dissent.

{¶ 2} In 2010, appellant, Jeremiah Jackson, waived his right to a jury trial and was convicted by a three-judge panel of three counts of aggravated murder and other felonies. *See* 2014-Ohio-3707, ¶ 54, 105. The panel sentenced Jackson to death. *Id.* at ¶ 55. Jackson appealed and raised a number of issues for our review, including whether the trial court erred

when it conducted an "*Atkins* hearing" related to intellectual disability, 2014-Ohio-3707 at ¶ 58-59, and whether Jackson's counsel was ineffective for failing to investigate and fully pursue whether Jackson was intellectually disabled under the *Atkins* test, 2014-Ohio-3707 at ¶ 172, 174, making him ineligible for the death penalty.

{¶ 3} Although the trial court heard evidence indicating that Jackson's IQ score was 75, *id.* at ¶ 72, his trial counsel did not argue that he was intellectually disabled, *id.* at ¶ 84, and Jackson was found competent to stand trial, *id.* at ¶ 114. When the trial court considered whether Jackson understood his jury-trial waiver, Jackson told the court his head was "banging" and his attorney made a comment that Jackson was "a little delusional." *Id.* at ¶ 103-104. During the penalty phase of the case, the defense mitigation expert testified that Jackson had a significant history of drug use. *Id.* at ¶ 223-224. The expert explained that Jackson had referred to himself as a werewolf and the expert opined that it was possible Jackson had suffered a drug-induced psychosis at the time of the offenses. *Id.* at ¶ 225. This court found that it was speculative whether Jackson's expert could have presented additional evidence to establish a nexus between Jackson's history of substance abuse and the offenses. *Id.* at ¶ 226. This court affirmed Jackson's conviction and sentence. *Id.* at ¶ 310.

{¶ 4} It appears that Jackson filed a timely petition for postconviction relief while his direct appeal was being considered by this court. *See* 2017-Ohio-2651, ¶ 7 (8th Dist.). For unknown reasons, the trial court did not issue its decision dismissing that petition until 2016. *See id.* Jackson appealed the dismissal, and the Eighth District Court of Appeals affirmed. *Id.* at ¶ 1-2. Jackson sought discretionary review by this court, which was denied. *See* 2018-Ohio-365.

{¶ 5} In 2020, Jackson filed a second petition for postconviction relief. According to the trial court's opinion and order, Jackson argued in his petition that he had newly discovered evidence that related to his being diagnosed with a serious mental illness and that the evidence would demonstrate that his trial counsel was ineffective for not properly investigating whether he suffered from a mental illness at the time of the commission of the criminal acts. Under R.C. 2953.23(A)(1)(a), in order to pursue the claims in his petition at that late stage, Jackson had to show that he was unavoidably prevented from discovering the new information and therefore could not bring a timely postconviction petition.

{¶ 6} The new information that Jackson relied on was a 2019 diagnosis of schizoaffective disorder. Jackson filed with his petition a copy of a report from the clinical psychologist who

had diagnosed him and a report from a neuropharmacologist who also had evaluated him. The neuropharmacologist agreed with the schizoaffective-disorder diagnosis, and his report included his opinion that Jackson's schizoaffective disorder likely predated Jackson's criminal offenses. The trial court recognized the symptoms of schizoaffective disorder as including "auditory hallucinations, paranoid delusions, and tangential, disorganized thought processes." Cuyahoga C.P. No. CR 09 532145-A, 4-5 (August 14, 2024).

{¶ 7} Jackson also filed an affidavit from one of his trial attorneys explaining that he believed Jackson was "mentally ill" and was shocked that Jackson was found competent to stand trial. According to the trial court, Jackson's attorney averred:

> Every time I spoke with him, [Mr. Jackson] showed himself to be incompetent. His affect came across as seriously strange [. . .] It was very hard to communicate with him because his thought process was so bizarre and his intellectual functioning was very low. Mr. Jackson did not appear to grasp the severity of the situation he was in, that he could be sentenced to death.

(Bracketed text in original). *Id.* at 6.

{¶ 8} In considering the second petition, the trial court found that Jackson was dependent on his counsel to adequately investigate and present Jackson's conditions. Accordingly, the trial court reasoned that Jackson's diagnosis did constitute new facts that he was unavoidably prevented from discovering due to his trial counsel and his counsel for his first postconviction petition not investigating and presenting the extent of Jackson's mental illness. The trial court concluded that had Jackson's diagnosis been exposed at the time of trial, it would have prevented him from waiving his right to a jury trial and would have been a mitigating factor that weighed against the imposition of the death penalty. The trial court granted Jackson's petition to vacate the judgment and sentence.

{¶ 9} The State appealed and the court of appeals reversed, finding that Jackson's mental-health issues had been at the heart of his case throughout the proceedings and that counsel could not have been expected to know that Jackson did not receive the correct diagnosis. 2025-Ohio-2363, ¶ 51 (8th Dist.). The appellate court reasoned that "by simply arguing that competent counsel with reasonable diligence could have discovered and presented evidence of his

diagnosis, Jackson has admitted that he was not unavoidably prevented from discovering his psychological challenges and substance-abuse issues." *Id*.

{¶ 10} One judge on the appellate-court panel concurred in part and dissented in part. In that opinion, Judge Klatt stated that he would have found that Jackson's "corrected misdiagnosis" must be considered new information for purposes of overcoming the "unavoidably prevented" standard in R.C. 2953.23(A)(1)(a), *id*. at ¶ 56 (concurring-and-dissenting opinion of Klatt, J.). He would have found that the trial court, having established jurisdiction over the claims by finding that Jackson presented newly discovered information, should have held an evidentiary hearing on the merits of Jackson's petition. *Id*. at ¶ 70, 75-76 (concurring-and-dissenting opinion of Klatt, J.). I agree with the sentiment expressed in the separate opinion of Judge Klatt.

{¶ 11} According to the questionable reasoning of the court of appeals' majority opinion, a corrected or recently obtained diagnosis would never be permitted to be considered as new information for purposes of supporting an untimely postconviction petition. This means a defendant cannot get a foot in the court's door under R.C. 2953.23(A)(1)(a) to raise a claim that his counsel was ineffective, even when the new diagnosis could render the defendant ineligible for the death penalty. This is unacceptable. This court should accept Jackson's appeal, reverse the decision of the Eighth District, and order it to remand Jackson's second petition for postconviction relief to the trial court to hold a hearing on the newly discovered evidence.

{¶ 12} Although it appears that multiple courts have reviewed whether Jackson suffered from an intellectual disability, it does not appear that any of the courts were presented with evidence related to schizoaffective disorder, a disease of the brain causing mental illness. It is a matter of great public interest that the court of appeals concluded that no court will ever be able to consider Jackson's claims based on his new mental-health diagnosis, despite the opinion of a mental health expert that Jackson's now diagnosed mental illness predated the commission of the crimes he was convicted of. Additionally, this case merits our review because it involves the constitutionality of putting to death a person with a serious mental illness and/or an intellectual disability. Jackson, a person with an IQ score of 75 who has a disorder that manifests itself in delusions, depression, disorganized thoughts, and mood swings—failed to timely discover and present evidence of his own mental illness. This cannot be a fair or cogent application of the "unavoidably prevented" standard in R.C. 2953.23(A)(1)(a). I dissent to alert this court, the bar,

and the public to the major injustice that is this court's refusing to even consider this question—a worthy one in light of new discoveries related to mental illness and evolving treatments. I therefore strongly dissent.
