

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY**

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

ARZENOUS A. HALL,

Defendant-Appellant.

CASE NO. 2026-P-0011

Civil Appeal from the
Court of Common Pleas

Trial Court No. 2024 CR 00367

OPINION AND JUDGMENT ENTRY

Decided: September 28, 2026

Judgment: Affirmed

Connie J. Lewandowski, Portage County Prosecutor, and *Vincent V. Vigluicci*, Assistant Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Plaintiff-Appellee).

Arzenous A. Hall, pro se, PID# A814-365, Madison Correctional Institution, P.O. Box 740, 1851 State Route 56, London, OH 43140-0740 (Defendant-Appellant).

EUGENE A. LUCCI, J.

{¶1} Appellant, Arzenous A. Hall, appeals the judgment denying his motion to extend the period to file a petition for postconviction relief and dismissing his petition as untimely filed. For the reasons that follow, we affirm.

{¶2} In 2024, Hall was convicted of one count of felonious assault and one count of attempted petty theft following a jury trial. Hall filed a direct appeal with this court, and we affirmed the convictions. *State v. Hall*, 2025-Ohio-1708, ¶ 50 (11th Dist.), *appeal not allowed*, 2025-Ohio-3078, and *appeal not allowed*, 2026-Ohio-154. As relevant to the present matter, the record in Hall's direct appeal was filed on December 11, 2024.

{¶3} On December 12, 2025, Hall filed a petition for postconviction relief. The State moved to dismiss the petition as untimely. In response, Hall filed a memorandum in opposition to the State's motion and a request to extend the time to file the petition. Thereafter, the trial court denied Hall's motion for an extension of time and dismissed the petition.

{¶4} Hall timely noticed an appeal, and he now assigns one error for our review:

{¶5} "The trial court abused its discretion by denying appellant's petition for postconviction relief as untimely."

{¶6} R.C. 2953.21, which governs petitions for postconviction relief, provides in relevant part:

A person in any of the following categories may file a petition in the court that imposed sentence, stating the grounds for relief relied upon, and asking the court to vacate or set aside the judgment or sentence or to grant other appropriate relief:

(i) Any person who has been convicted of a criminal offense or adjudicated a delinquent child and who claims that there was such a denial or infringement of the person's rights as to render the judgment void or voidable under the Ohio Constitution or the Constitution of the United States

R.C. 2953.21(A)(1)(a).

{¶7} Where a petitioner has pursued a direct appeal of his conviction, the petition for postconviction relief must "be filed no later than three hundred sixty-five days after the date on which the trial transcript is filed in the court of appeals in the direct appeal of the judgment of conviction" R.C. 2953.21(A)(2)(a).

{¶8} R.C. 2953.23 provides limited exceptions to the 365-day deadline for filing the petition for postconviction relief. One such exception is contained in R.C. 2953.23(A)(1), as follows:

(A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court may not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or a second petition or successive petitions for similar relief on behalf of a petitioner unless division (A)(1) or (2) of this section applies:

(1) Both of the following apply:

(a) Either the petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief, or, subsequent to the period prescribed in division (A)(2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a new federal or state right that applies retroactively to persons in the petitioner's situation, and the petition asserts a claim based on that right.

(b) The petitioner shows by clear and convincing evidence that, but for constitutional error at trial, no reasonable factfinder would have found the petitioner guilty of the offense of which the petitioner was convicted or, if the claim challenges a sentence of death that, but for constitutional error at the sentencing hearing, no reasonable factfinder would have found the petitioner eligible for the death sentence.

A second exception, as set forth in R.C. 2953.23(A)(2), applies to petitioners for whom DNA testing was performed.

{¶9} “R.C. 2953.23(A) deprives a trial court of jurisdiction to adjudicate the merits of an untimely or successive postconviction petition.” *State v. Apanovitch*, 2018-Ohio-4744, ¶ 36. “[T]he question whether a court of common pleas possesses subject-matter jurisdiction to entertain an untimely petition for postconviction relief is a question of law, which appellate courts review de novo.” *Id.* at ¶ 24, quoting *State v. Kane*, 2017-Ohio-7838, ¶ 9 (10th Dist.).

{¶10} Here, Hall advances four arguments in support of his position that the trial court erred in dismissing his petition: (1) his petition was filed within the 365-day period, (2) the petition should be deemed filed on the date that he submitted it for mailing to prison officials, (3) the petition was received by the clerk within the 365-day period, and (4) the running of the 365-day period should commence on the date that his counsel was permitted to review sealed records in his direct appeal. We address each argument in turn.

{¶11} With respect to his first argument, as set forth above, the record in Hall's direct appeal was filed on December 11, 2024, and Hall's petition is date-stamped December 12, 2025. Accordingly, Hall's petition was filed one day after the expiration of the 365-day period.

{¶12} Regarding Hall's argument that his petition should be considered filed on the date he submitted it to prison officials for mailing, which he contends occurred on December 3, 2025, Hall relies on the prison mailbox rule as adopted by the United States Supreme Court in *Houston v. Lack*, 487 U.S. 266, 270 (1988). However, the mailbox rule is not binding on the states, and the Supreme Court of Ohio has rejected this rule. *State ex rel. Tyler v. Alexander*, 52 Ohio St.3d 84 (1990); *Calo v. Stuff*, 2024-Ohio-5167, ¶ 14. See also *State v. Bowens*, 1998 WL 553049, *3 (11th Dist. June 26, 1998). In Ohio, a document is not considered filed until deposited with the clerk of courts. *State ex rel. Tyler* at 84.

{¶13} Next, in regard to Hall's argument that the clerk received his petition on December 9, 2025, but failed to timely date-stamp the petition, Hall appears to advance this argument for the first time on appeal. Generally, appellate courts will not consider

claims of error which a party failed to bring to the attention of the trial court at a point when the trial court could have avoided or corrected the error. *State v. Quarterman*, 2014-Ohio-4034, ¶ 15. Further, we note that Hall does not direct this court to anywhere within the record evidencing the date the clerk received his petition.

{¶14} Last, with respect to Hall’s argument that the running of the 365-day period should not commence until his counsel on direct appeal was permitted to review sealed documents (the presentence investigation report), he again failed to raise this argument in the trial court. *See id.* In addition, Hall cites no authority for this proposition, which is contrary to the plain language of R.C. 2953.21(A)(2)(a) requiring the petition be filed “no later than” 365 days “after the date on which the trial transcript is filed in the court of appeals in the direct appeal of the judgment of conviction”

{¶15} Therefore, Hall’s arguments that his petition was timely filed are not well taken. Moreover, Hall has not advanced an argument that an R.C. 2953.23 exception applies. Accordingly, the trial court did not err in concluding that it lacked jurisdiction to consider the petition. Hall’s sole assigned error lacks merit.

{¶16} The judgment is affirmed.

MATT LYNCH, P.J.,

ROBERT J. PATTON, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's sole assignment of error lacks merit. It is the judgment and order of this court that the judgment of the Portage County Court of Common Pleas is affirmed.

Costs to be taxed against appellant.

JUDGE EUGENE A. LUCCI

PRESIDING JUDGE MATT LYNCH,
concur

JUDGE ROBERT J. PATTON,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.