

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

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

ANTON D. HAMILTON, JR.,

Defendant-Appellant.

CASE NO. 2026-L-0026

Civil Appeal from the
Court of Common Pleas

Trial Court No. 1999 CR 000231

OPINION AND JUDGMENT ENTRY

Decided: October 13, 2026

Judgment: Affirmed

Charles E. Coulson, Lake County Prosecutor, and *Teri R. Daniel*, Assistant Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

Anton D. Hamilton, Jr., pro se, PID# A379-712, Belmont Correctional Institution, P.O. Box 540, 68518 Bannock Road, State Route 331, Saint Clairsville, OH 43950 (Defendant-Appellant).

SCOTT LYNCH, J.

{¶1} Petitioner-appellant, Anton D. Hamilton, Jr., appeals the denial of his Postconviction Petition by the Lake County Court of Common Pleas. Because Hamilton’s Petition failed to satisfy the jurisdictional requirements of R.C. 2953.23(A)(1), we affirm the denial of the Petition.

Substantive and Procedural History

{¶2} In February 2004, Hamilton was convicted following a jury trial of Murder and sentenced to a term of fifteen years to life. Hamilton’s conviction was affirmed on

direct appeal. *State v. Hamilton*, 2005-Ohio-4907 (11th Dist.).

{¶3} In November 2009, Hamilton filed a petition for postconviction relief. The petition was denied and the denial was affirmed on appeal. *State v. Hamilton*, 2010-Ohio-2292 (11th Dist.).

{¶4} On February 9, 2026, Hamilton filed the present Postconviction Petition based on newly discovered evidence. Specifically, Hamilton claimed that his conviction was procured by “fraud” and “deception.” His argument is as follows:

{¶5} Prior to trial, the trial court granted a defense motion to provide Hamilton with an independent fingerprint expert at public expense. The court’s docket indicates that Michael J. Sinke was appointed as the defense expert and payment was approved for his services. Hamilton claimed that, on the day of trial, defense counsel “brandish[ed] a piece of paper claiming it [was] from Michael J. Sinke” and that “he didn’t discover anything to rebut [the] prosecutor’s case.” However, counsel did not allow him to see the paper or have a copy of it.

{¶6} When Hamilton took the stand to testify at trial, “the prosecutor himself, said while holding a piece of paper in his hand, ‘the defense hired a fingerprint expert too, what did he have to say?’” Hamilton responded, “I myself didn’t get to talk to him, so I don’t know.” Hamilton claims that this created the impression that the defense expert did not find anything favorable to the defense.

{¶7} Years later Hamilton was seeking a copy of the expert report and, “by some miracle,” discovered the lab where Sinke was employed. Hamilton contacted the lab (Speckin Forensic Laboratories) and requested a copy of the report. He received the following reply (dated March 31, 2015) from a document analyst: “I have looked into our

files and found no record of our lab having ever been retained by you, nor having worked on a case with your name.”

{¶8} Hamilton concludes that “the fingerprint expert Michael J. Sinke was never hired for the petitioner in this case, and the public funds granted, were therefore stolen by the attorneys!” Moreover, “the prosecutor knew, or should have known, that he was presenting highly inflammatory ‘false evidence’ against the petitioner during his testimony,”

{¶9} On February 24, 2026, the trial court denied the Petition, finding “that the Petition is barred by the doctrine of *res judicata*” and that “the Petition does not meet the standard set forth in R.C. 2953.23(A)(1).”

Assignments of Error

{¶10} On March 16, 2026, Hamilton filed a Notice of Appeal. On appeal, he raises the following assignments of error:

[1.] The trial court is in error for applying Res Judicata to bar newly discovered evidence from being heard for the first time.

[2.] The trial court erred in [its] decision that ORC 2953.23(A)(1) was unfulfilled in this appellant’s petition.

Successive and Untimely Postconviction Petitions

{¶11} The Revised Code establishes the following prerequisites for the consideration of a successive or untimely postconviction petition:

[A] court may not entertain a petition filed after the expiration of the period [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] or a second petition or successive petitions for similar relief on behalf of a petitioner unless ... [b]oth of the following apply: ... [t]he 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, ... [and] [t]he

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.

R.C. 2953.23(A)(1)(a) and (b).

{¶12} These requirements are jurisdictional, *i.e.*, unless they are satisfied a trial court is without authority to consider the petition. *State v. Johnson*, 2024-Ohio-134, ¶ 10 (“[a] trial court does not have subject-matter jurisdiction to adjudicate a postconviction petition that is untimely—*i.e.*, filed outside the statutory deadline under R.C. 2953.21(A)(2)—or successive—*i.e.*, a second or subsequent petition”).

{¶13} The issue of whether a trial court has jurisdiction to consider a successive or untimely postconviction petition is a question of law which is reviewed *de novo* by an appellate court. *State v. Apanovitch*, 2018-Ohio-4744, ¶ 24.

{¶14} We will address the second assignment of error first as it is determinative of the appeal.

Clear and Convincing Evidence that the Petitioner Would Not Have Been Found Guilty

{¶15} Hamilton argues that the deception practiced by the trial attorneys prevented him from challenging the State’s physical evidence and compelled him to adopt a trial strategy accordingly. He also emphasizes that he was only convicted after “four days of deliberation, during which two deadlocked juries were presented to the judge before the judge ordered a ‘Howard’ charge.” *See Hamilton*, 2005-Ohio-4907, at ¶ 112 (11th Dist.).

{¶16} The following evidence of Hamilton’s guilt was presented at trial:

In 1999, Dr. Heather Raff was employed by the Lake County Coroner’s Office and performed the autopsy on Melvin. She testified

the cause of death was three gunshot wounds. In addition, in her opinion, the gunshot wounds were not self-inflicted.

Hamilton's fingerprint was found on the murder weapon. This was evidence before the jury that Hamilton touched the murder weapon at some time. In his police statements, Hamilton only admitted touching Melvin's nine-millimeter gun. Therefore, there is the inference that he touched the other gun when using it to shoot Melvin.

Id. at ¶ 87-88.

In regard to the fingerprint evidence, Mitchell Wisniewski of the Lake County Crime Lab testified at Hamilton's second trial that the latent print on the murder weapon matched the right index finger of Hamilton. Moreover, Hamilton testified at his second trial that it was possible that his fingerprint was on the murder weapon because he had touched the gun on a prior occasion. He testified that Melvin Hamilton had several firearms and that he had handled them, both with and without Melvin's permission, during the time he lived at Melvin's residence.

Hamilton, 2010-Ohio-2292, at ¶ 24 (11th Dist.).

Hamilton offered an explanation as to how his fingerprint could have appeared on the murder weapon. He testified that he told Chief Lutha that he did not *remember* touching any of Melvin's guns other than the nine-millimeter handgun. However, his statement does not contain the word "remember." There was evidence before the jury that Hamilton touched the murder weapon. Apparently, the jury decided not to believe Hamilton's testimony that he could have handled the .38 caliber gun prior to the murder to account for his fingerprint being found on the gun.

Hamilton, 2005-Ohio-4907, at ¶ 105.

Hamilton's police statement is also directly contradicted by Lawrence's trial testimony. Lawrence testified that Melvin was at her house from 8:30 to 8:45 p.m. on May 10, 1999. Also, she testified that Melvin was returning a truck, which he had borrowed to clean out his brother's house. Rory Weakland testified that Melvin placed his takeout order at 8:58 p.m. Taken together, this testimony disproves Hamilton's assertion that he saw his grandfather at 8:30 p.m.

The doors of Melvin's house were locked when the family members arrived on May 11, 1999. None of the windows or doors were broken. Inside the house, there was no evidence of a struggle. These facts suggest Melvin was killed by someone he knew.

Hamilton was in the location of Melvin's house on the night Melvin was murdered. Jonathan King, a neighborhood friend of Hamilton's, testified that he encountered Hamilton walking on a street near Melvin's residence about 10:45 p.m. on May 10, 1999. Jameson Jeffries was another friend of Hamilton's. On May 10, 1999, Jeffries noticed Hamilton walking in the vicinity of Melvin's house. Jeffries gave Hamilton a ride around the block. After talking to him for a while, Jeffries dropped Hamilton off near Jonathan King, whom Jeffries also knew. The testimony of these witnesses placed Hamilton near Melvin's house, close to the time the coroner estimated Melvin was killed.

The state presented evidence that Hamilton had a motive for the crime. Hamilton had been staying at Melvin's house, but the arrangement had ended the day Melvin died, Monday, May 10, 1999. Jonathan King testified that he spoke to Hamilton a few weeks prior to Melvin's death, and Hamilton was upset about being "put out." According to King, Hamilton told him that his family members would pay for putting him out. Also, on the night Melvin's body was found, Hamilton made several comments regarding the fact that he needed to find a place to stay and that he had "problems of his own."

Hamilton made several statements to various individuals, which indicate that he was the individual who killed Melvin. First, prior to being informed that Melvin had died, Hamilton informed his sister that Melvin was in heaven. This statement suggests Hamilton already knew Melvin was dead.

Jeffries testified that Hamilton approached him when they were both in jail and asked Jeffries to arrange an alibi for him. When Jeffries told him he was unable to arrange an alibi witness, Hamilton told him he would kill somebody else because of all the things he did for people. When Jeffries told Hamilton he did not think he was involved in the incident, Hamilton responded, "I fucked up. I was fucked up." In addition, Jeffries testified that Hamilton told him he should use an insanity defense and that he should have gone to Mexico when he had the chance. All of these statements suggest Hamilton was involved in Melvin's death.

Id. at ¶ 89-94.

{¶17} In light of the evidence of guilt presented at trial, we find that Hamilton has failed to demonstrate by clear and convincing evidence that, but for the alleged deception practiced by the trial attorneys, no reasonable factfinder would have found him guilty. There are several aspects to the issue.

The Presence of Hamilton's Fingerprint on the Murder Weapon Was Not Determinative

{¶18} Hamilton provided an explanation as to how his fingerprint could have innocently appeared on the murder weapon. Hamilton lived with the victim and had admittedly handled the victim's firearms prior to the murder. Thus, in Hamilton's case, evidence of opportunity and motive were as essential to the conviction as was the physical evidence. See *State v. Hamilton*, 2002-Ohio-1681, ¶ 131 (Christley, J., concurring) ("[t]his case presents one of those rare exceptions where the fingerprint evidence by itself was insufficient to prove appellant was guilty," as "[q]uite frankly, there was nothing to link appellant's fingerprint to the moment of the crime").

{¶19} For this reason, the alleged use of the non-existent expert report during the cross-examination of Hamilton could not have contributed in any meaningful way to his guilt. Hamilton claims that the prosecutor's question about the report created the impression that the report did not rebut the State's own evidence. In fact, the State's fingerprint evidence was already unrebutted and through Hamilton's testimony to a degree corroborated. That is, the State introduced evidence that Hamilton's fingerprint was on the murder weapon. Hamilton testified that his fingerprint could have been on the murder weapon. Merely creating the impression that a report may have existed which was consistent with the foregoing evidence is hardly inflammatory to a degree that the outcome of the trial was altered.

Speculation is Not Clear and Convincing Evidence of Acquittal

{¶20} It could be argued that, but for the State's un rebutted physical evidence, Hamilton would not have had to testify at all, or that, given the opportunity, the defense expert would have rebutted the State's evidence. Such speculative assertions, however, do not satisfy the standard of clear and convincing evidence that, but for the deception, no reasonable jury would have found him guilty. *State v. Deaton*, 2020-Ohio-6955, ¶ 32 (2d Dist.) ("speculation cannot establish a reasonable probability that the outcome of the trial would have been different") (citation omitted).

{¶21} The second assignment of error is without merit.

{¶22} Given the determination that Hamilton failed to satisfy the jurisdictional requirements of R.C. 2953.23(A)(1), the issue raised in the first assignment of error regarding the applicability of *res judicata* to this successive petition is rendered moot.

{¶23} For the foregoing reasons, the judgment of the Lake County Court of Common Pleas to deny Hamilton's Postconviction Petition is affirmed. Costs to be taxed against the appellant.

JOHN J. EKLUND, J.,

ROBERT J. PATTON, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the Opinion of this court, the assignments of error are without merit. The order of this court is that the judgment of the Lake County Court of Common Pleas is affirmed.

Costs to be taxed against appellant.

JUDGE SCOTT LYNCH

JUDGE JOHN J. EKLUND,
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.