[Cite as *State v. Grant*, 2026-Ohio-4445.]

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY

STATE OF OHIO, Plaintiff-Appellee, - vs - DONTEILL M. GRANT, Defendant-Appellant.	**CASE NO. 2026-T-0023** Civil Appeal from the Court of Common Pleas Trial Court No. 2023 CR 00608

OPINION AND JUDGMENT ENTRY

Decided: November 9, 2026
Judgment: Affirmed

Dennis Watkins, Trumbull County Prosecutor, and *Charles L. Morrow*, Assistant Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481 (For Plaintiff-Appellee).

Donteill M. Grant, pro se, PID# A814-500, Richland Correctional Institution, P.O. Box 8107, 1001 Olivesburg Road, Mansfield, OH 44901 (Defendant-Appellant).

ROBERT J. PATTON, J.

{¶1} Defendant-appellant, Donteill M. Grant ("Grant"), appeals from the judgment of the Trumbull County Court of Common Pleas, denying his petition for postconviction relief without a hearing. For the following reasons, we affirm.

{¶2} Upon review, we conclude that none of Grant's assignments of error have merit. Thus, the trial court appropriately denied Grant's petition without a hearing.

{¶3} Accordingly, the judgment of the Trumbull County Court of Common Pleas is affirmed.

Substantive and Procedural Facts

{¶4} On September 20, 2023, a Trumbull County Grand Jury, in a two-count indictment, charged Grant with trafficking in cocaine, a felony of the first degree, with a specification of forfeiture, pursuant to R.C. 2925.03(A)(2) and (C)(4)(g), 2941.1417(A), 2981.02(A)(1)(b) and/or (c)(i), and 2981.04 ("Count 1") and possession of cocaine, a felony of the first degree, with a specification of forfeiture, pursuant to R.C. 2925.11(A) and (C)(4)(f), 2941.1417(A), 2981.02(A)(1)(b) and/or (c)(i), and 2981.04 ("Count 2").[1] Grant pleaded not guilty to the charges at arraignment.

{¶5} Grant filed a motion to suppress on February 5, 2024. A suppression hearing was held on March 12, 2024. The trial court denied the motion to suppress on May 9, 2024.

{¶6} On June 20, 2024, Grant pleaded guilty to Count 1 as charged in the indictment. In exchange for his plea, the State agreed to file a nolle prosequi on Count 2. The plea agreement further contained a jointly recommended sentence "of a mandatory minimum sentence of six years and no more than ten years."

{¶7} Prior to sentencing, Grant filed a motion to withdraw his guilty plea and expressed his desire to retain his ability to appeal the trial court's decision denying his motion to suppress. The State of Ohio ("State") opposed Grant's motion.

{¶8} The trial court granted Grant's motion to withdraw his plea on October 2, 2024, and the case proceeded to a jury trial on October 21, 2024. The jury found Grant guilty of both Counts 1 and 2. As to both counts, the jury additionally found that the weight

1. The charges were initially filed in the Trumbull County Eastern District Court on July 12, 2023, and bound over to the Trumbull County Grand Jury on August 22, 2023.

of cocaine equaled or exceeded 100 grams and determined that the $638 recovered during the traffic stop was not subject to forfeiture.

{¶9} A sentencing hearing was held on October 23, 2024. The trial court determined that Counts 1 and 2 were allied offenses of similar import and merged the counts for the purposes of sentencing. The State elected to proceed on Count 2. Grant was sentenced to a mandatory prison term of 11 years to a maximum of 16½ years and the trial court imposed a mandatory $10,000 fine. Grant was further ordered to submit to DNA testing.

{¶10} Grant timely appealed from his conviction and sentence. The record was filed on February 24, 2025. In his direct appeal, Grant raised three assignments of error for review. Specifically, he argued that the trial court erred in denying his motion to suppress, erred in admitting the composite video, State's Exhibit 8, and that his conviction was against the manifest weight of the evidence. *State v. Grant*, 2025-Ohio-5095 (11th Dist.). This court affirmed the judgments of the trial court on November 10, 2025. *Id.* Specifically, this court determined that: (1) there was reasonable suspicion to initiate the traffic stop, and therefore, the trial court properly denied Grant's motion to suppress; (2) the trial court did not err in admitting the "composite video" into evidence; and (3) Grant's conviction was not against the manifest weight of the evidence. *Id.*

{¶11} Grant sought reconsideration of this court's decision pursuant to App.R. 26(A), pro se, on November 19, 2025. The State opposed. Grant asserted in his application for reconsideration that the record did not include the full dash cam or body cam video, and therefore, the court was unable to fully address or consider his claims. We denied the application for reconsideration on January 22, 2026, explaining:

> The video evidence admitted at trial did not form the basis of this court's affirmance on the issue of probable cause. Grant asserted on appeal that the trial court erred in admitting the "composite video." We determined that the trial court properly admitted the video. Further, the dash cam and body cam were admitted separately, apart from the "composite video," into evidence as State's Exhibits 6 and 7. The videos were therefore made a part of the record, and were reviewed on appeal. [Grant] at 20. Grant's opportunity to raise an assignment of error with the trial court's admission of edited or unedited versions of the body and dash cam was on direct appeal, and an App.R. 26(A)(1) application for reconsideration is not the appropriate vehicle to seek additional review.

{¶12} On January 14, 2026, Grant filed a pro se petition for postconviction relief.[2] In his petition, Grant identified five grounds for relief:

> (1) Brady Violation – Suppression and Misrepresentation of Evidence
>
> (2) Prosecutorial Misconduct
>
> (3) Ineffective Assistance of Trial Counsel
>
> (4) Ineffective Assistance of Appellate Counsel
>
> (5) Denial of Due Process and Fundamental Fairness

The State filed a motion to dismiss Grant's petition. The trial court denied the petition on January 29, 2026.[3] Specifically, the trial court determined that Grant's petition was barred by res judicata as the petition raised "the same arguments regarding the video that was played at trial that he made to the appellate court." Grant filed his notice of appeal on March 23, 2026, in the case sub judice.

2. Grant also filed his petition for postconviction relief in the appellate court on January 9, 2026. This court dismissed the filing for lack of jurisdiction on February 19, 2026.
3. After the trial court denied the petition, Grant filed a pro se reply in opposition to the State's motion to dismiss on February 5, 2026.

{¶13} We also note, for purposes of appellate procedural history, on February 19, 2026, Grant filed a pro se application for reopening pursuant to App.R. 26(B) in his direct appeal. In his application, Grant asserted that his appellate counsel failed to raise a claim regarding the alleged ineffectiveness of defense counsel at the suppression hearing and further failed to properly challenge probable cause under post-legalization of marijuana standards. The State opposed. This court overruled Grant's application for reopening on March 6, 2026, finding the application was untimely and that Grant failed to establish good cause for the delayed filing. This court further noted that Grant failed to include a sworn statement of the basis for the claim that appellate counsel's representation was deficient as required by App.R. 26(B)(2)(d). The sworn statement requirement in App.R. 26(B)(2)(d) is mandatory. *State v. Lechner*, 1995-Ohio-25, ¶ 4.

{¶14} On March 6, 2026, Grant filed a pro se notice of appeal to the Supreme Court of Ohio. The notice of appeal attached this court's November 10, 2025 opinion on Grant's direct appeal, and the January 22, 2026 entry denying his application for reconsideration. The Supreme Court of Ohio declined jurisdiction on May 26, 2026. *05/26/2026 Case Announcements*, 2026-Ohio-1880.

The Appeal

{¶15} Grant appeals from the trial court's decision denying his petition for postconviction relief. Grant raises a single assignment of error for review:

> [1.] The trial court abused its discretion when it denied post conviction petition based on misinterpretation of the petition's claims in violation of the fourteenth amendment of the United States Constitution.

{¶16} Under his assignment of error, Grant makes four claims: (1) "the State violated due process by failing to preserve and produce original video evidence"; (2) "the

State suppressed material exculpatory evidence in violation of *Brady* [*v. Maryland*];" (3) "trial counsel was constitutionally ineffective"; and (4) "the trial court admitted unreliable and unauthenticated evidence."

{¶17} Ohio's postconviction relief statute, R.C. 2953.21, provides in relevant part:

> (A)(1)(a) 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;
>
> . . .
>
> (b) A petitioner under division (A)(1)(a) of this section may file a supporting affidavit and other documentary evidence in support of the claim for relief.
>
> . . .
>
> (D) . . .Before granting a hearing on a petition filed under division (A)(1)(a)(i). . .of this section, the court shall determine whether there are substantive grounds for relief. In making such a determination, the court shall consider, in addition to the petition, the supporting affidavits, and the documentary evidence, all the files and records pertaining to the proceedings against the petitioner. . .If the court dismisses the petition, it shall make and file findings of fact and conclusions of law with respect to such dismissal of the petition and of each claim it contains.
>
> . . .
>
> (F) Unless the petition and the files and records of the case show the petitioner is not entitled to relief, the court shall proceed to a prompt hearing on the issues even if a direct appeal of the case is pending.

. . .

> (H) If the court does not find grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter judgment denying relief on the petition.

{¶18} The burden is on the petitioner "to show via affidavits, the record, and other supporting materials that sufficient operative facts exist which, if true, would establish substantive grounds for postconviction relief." *State v. Hull*, 2020-Ohio-2895, ¶ 11 (11th Dist.), citing R.C. 2953.21(D). *Accord State v. Beasley*, 2025-Ohio-1599, ¶ 33 (11th Dist.).

{¶19} "A petitioner seeking to challenge a conviction through a petition for postconviction relief is not entitled to a hearing." *Beasley* at ¶ 33, citing *State v. Calhoun*, 1999-Ohio-102, ¶ 13. "[W]here the petition, the supporting affidavits, the documentary evidence, the files, and the records do not demonstrate that petitioner set forth sufficient operative facts to establish substantive grounds for relief," the trial court may deny a petition for postconviction relief without an evidentiary hearing. *Id*., quoting *Calhoun* at ¶ 42.

{¶20} R.C. 2953.21(C) mandates that a trial court must issue findings of fact and conclusions of law if the court dismisses a petition for postconviction relief. *Calhoun* at ¶ 44, citing *State v. Lester*, 41 Ohio St.2d 51 (1975), paragraph two of the syllabus . A trial court is not required to discuss every issue raised or "engage in an elaborate and lengthy discussion in its findings of fact and conclusions of law." *Calhoun* at ¶ 45. "A trial court 'issues proper findings of fact and conclusions of law where such findings are comprehensive and pertinent to the issues presented, where the findings demonstrate the basis for the decision by the trial court, and where the findings are supported by the evidence.'" *Beasley* at ¶ 35, quoting *Calhoun* at ¶ 46.

{¶21} An appellate court reviews the denial of a motion for postconviction relief for an abuse of discretion. *State v. Mitchell,* 2019-Ohio-844, ¶ 11 (11th Dist.), citing *State v. Adams*, 2005-Ohio-348, ¶ 37 (11th Dist.). "The trial court serves a gatekeeping function in the postconviction relief process and is 'entitled to deference, including the court's decision regarding the sufficiency of the facts set forth by the petitioner and the credibility of the affidavits submitted.'" *Beasley,* 2025-Ohio-1599 at ¶ 36, quoting *State v. Gondor*, 2006-Ohio-6679, ¶ 52. An abuse of discretion is the trial court's "'failure to exercise sound, reasonable, and legal decision-making.'" *State v. Beechler*, 2010-Ohio-1900, ¶ 62 (2d Dist.), quoting Black's Law Dictionary (8th Ed. 2004).

{¶22} It is well established that "[a] petition for postconviction relief does not provide a petitioner a second opportunity to litigate his or her conviction." *State v. Hobbs*, 2011-Ohio-5106, ¶ 17 (11th Dist.), citing *State v. Hessler*, 2002-Ohio-3321 ¶ 23 (10th Dist.). Indeed, "[t]he doctrine of res judicata establishes that 'a final judgment of conviction bars the convicted defendant from raising and litigating in any proceeding, except an appeal *from that judgment*, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at the trial which resulted in that judgment of conviction or on an appeal from that judgment.'" (Emphasis in original.) *State v. D'Ambrosio*, 1995-Ohio-129, ¶ 10, quoting *State v. Perry*, 10 Ohio St.2d 175, 180 (1967). A petitioner "must adduce evidence outside the record that demonstrates" the petitioner "could not have appealed the constitutional claims based upon information already in the record" to overcome res judicata. *State v. Gatchel*, 2008-Ohio-1029, ¶ 35 (11th Dist.).

{¶23} In other words, Grant "must provide competent, relevant, and material evidence outside of the trial court record in support of a postconviction petition to prevent the claim from being dismissed on res judicata grounds." *Beasley*, 2025-Ohio-1599, at ¶ 38 (11th Dist.), citing *State v. Lacy*, 2020-Ohio-1556, ¶ 26 (11th Dist.). "A trial court may . . . dismiss a petition for postconviction relief without holding an evidentiary hearing when the claims raised in the petition are barred by the doctrine of res judicata." *State v. Adams*, 2005-Ohio-348, at ¶ 38 (11th Dist.), citing *State v. Szefcyk,* 1996-Ohio-337. As this court has further explained:

> "To be genuinely relevant, the evidence dehors the record must materially advance the petitioner's claim and 'meet some threshold standard of cogency.'" *State v. Delmonico*, 11th Dist. Ashtabula No. 2004-A-0033, 2015-Ohio-2882, at ¶ 14, quoting *State v. Schlee*, 11th Dist. Lake No. 97-L-121, 1998 WL 964291, *2 (Dec. 31, 1998). In the absence of such a standard, it would be too easy for the petitioner to simply attach as exhibits "'evidence which is only marginally significant and does not advance the petitioner's claim beyond mere hypothesis and a desire for further discovery.'" *State v. Sopjack,* 11th Dist. Geauga No. 96-G-2004, 1997 WL 585904, *3 (Aug. 22, 1997), quoting *State v. Coleman*, 1st Dist. Hamilton No. C-900811, 1993 WL 74756, *7 (Mar. 17, 1993).

State v. Casey, 2023-Ohio-3837, ¶ 15 (11th Dist.).

{¶24} On appeal, Grant alleges that the State suppressed or withheld video evidence and asserts that defense counsel was provided, and the State used, an incomplete version of the videos of the traffic stop. Grant's petition included two affidavits, one from Grant, and one from a female, who indicates she was on the phone with Grant during a portion of the stop. In his petition, Grant contended that "missing portions [of the video] include statements and interactions that contradict the officer's testimony and

supports my defense, including evidence of prior familiarity, targeting, and inconsistencies regarding the basis of the stop."

{¶25} The State introduced two exhibits at the suppression hearing, the dash camera footage, and the body camera footage. The same recordings were also admitted at trial as Exhibits 6 and 7. States's Exhibit 8 at trial consisted of the recordings of Exhibits 6 and 7. It is clear from the record that the exhibits were provided to defense counsel prior to trial and these exhibits were utilized at trial. Any alleged omission would have been apparent at trial and could have been raised at trial or on direct appeal. *State v. Steffen*, 1994-Ohio-111, ¶ 60 ("Postconviction review is a narrow remedy, since res judicata bars any claim that was or could have been raised at trial or on direct appeal."); *see also State v. Sankey*, 2019-Ohio-2870, ¶ 9.

{¶26} Grant further asserts, as a ground for relief, that his due process rights were violated. This claim also rests on Grant's contention that the State did not disclose the entire recordings. Grant does not rely on any evidence outside the record. Because Grant could have raised this issue at trial or in his direct appeal, he is barred by res judicata from raising the claim in his petition for postconviction relief.

{¶27} Contrary to Grant's claim, any omitted statements regarding the officer's familiarity with Grant, or lack thereof, or the reasoning for the stop, was inconsequential to this court's determination regarding the validity or legality of the traffic stop. Accordingly, this claim for relief is barred by the doctrine of res judicata and the trial court did not err in so finding. *State v. Borecky*, 2020-Ohio-3697, ¶ 26 (11th Dist.).

{¶28} Likewise, Grant's claim of prosecutorial misconduct also fails. Grant does not rely on any evidence outside the record. Indeed, Grant relies upon the videos that

were provided to counsel and presented to the jury. Because Grant could have raised this issue at trial or in his direct appeal, he is barred by res judicata from raising the claim in his petition for postconviction relief.

{¶29} Grant next raises a claim of ineffective assistance of counsel. First, he argues ineffective assistance of trial counsel. Specifically, Grant alleges trial counsel was "deprived" of his "ability" to provide effective assistance of counsel due to the State's "nondisclosure" of the complete videos. Grant contends that trial counsel was unable to challenge the legality of the stop, meaningfully litigate the suppression issue, impeach the officer's testimony about the videos, and object to the prosecutor's composite video evidence.

{¶30} In a postconviction petition wherein, a petitioner raises an ineffective assistance of counsel claim, "'the petitioner bears the initial burden to submit evidentiary documents containing sufficient operative facts to demonstrate the lack of competent counsel and that the defense was prejudiced by counsel's ineffectiveness.'" *Beasley*, 2025-Ohio-1599, at ¶ 39 (11th Dist.), quoting *State v. Miller*, 2020-Ohio-871, ¶ 9 (11th Dist.), quoting *State v. Jackson*, 64 Ohio St.2d 107 (1980), syllabus.

{¶31} The Supreme Court of Ohio has held that res judicata does not bar a postconviction ineffective-assistance-of-counsel claim when either (1) the petitioner had the same attorney at trial and on appeal or (2) he must rely on evidence outside the trial record to establish his claim for relief. *State v. Cole*, 2 Ohio St.3d 112, 113-114 (1982). "The converse is that when the petitioner had a new attorney on appeal and the claim could have been litigated based on the trial record, res judicata applies and the postconviction claim is barred." *State v. Blanton*, 2022-Ohio-3985, ¶ 2, citing *Cole*.

{¶32} Grant was represented by new counsel on direct appeal. Grant's claims in his petition rely on facts and evidence that were part of the record in his direct appeal. Therefore, these issues could have been fully raised and litigated on direct appeal. Grant did not include any material from outside of the trial court record to demonstrate that he could not have made these arguments in his direct appeal. By Grant's own statements, his claims are based on facts which were known to him during the proceedings, at the time of trial, and certainly, before the filing of his direct appeal. *State v. McCaleb*, 2005-Ohio-4038, ¶ 21 (11th Dist.), citing *State v. Coleman*, 1993 WL 74756, *22 (1st Dist. Mar. 17, 1993) ("[E]vidence *de hors* the record must be more than evidence which was in existence and available to the defendant at the time of trial and which could and should have been submitted at trial if the defendant wished to make use of it. Simply put, the purpose of postconviction proceedings is not to afford one convicted of a crime a chance to retry his case.") Accordingly, Grant's claims are barred by res judicata.

{¶33} Grant next alleges that he received ineffective assistance of appellate counsel. Such argument is not properly advanced in a postconviction petition. *State v. Knowlton*, 2024-Ohio-5869, ¶ 31 (11th Dist.); *State v. Hermison*, 2008-Ohio-2918, ¶ 26 (11th Dist.), quoting *State v. Murnahan*, 63 Ohio St.3d 60, 65 (1992) ("'claims of ineffective assistance of appellate counsel are not cognizable in postconviction proceedings pursuant to R.C. 2953.21'"). The appropriate remedy is an application for reopening pursuant to App.R. 26(B). *See State v. Clark*, 2025-Ohio-4410.

{¶34} Indeed, Grant filed an application for reopening in his direct appeal to this court wherein he raised a claim of ineffective assistance of appellate counsel. However, his application was untimely and this court determined that Grant failed to establish good

cause for the delayed filing. Additionally, Grant failed to include a sworn statement of the basis for the claim that appellate counsel's representation was deficient as required by App.R. 26(B)(2)(d). Accordingly, Grant's claims were not properly before the trial court and are res judicata barred.

{¶35} Grant failed to establish substantive grounds for postconviction relief. Grant did not provide competent, relevant, and material evidence outside of the trial court record in support of his postconviction petition to overcome the application of res judicata. Thus, Grant's claims are barred by res judicata. The trial court did not abuse its discretion when it denied the petition on these grounds without a hearing. *See Beasley*, 2025-Ohio-1599, at ¶ 33 (11th Dist.), quoting *Calhoun*, 1999-Ohio-102, at ¶ 42.

{¶36} Grant's sole assignment of error is without merit.

Conclusion

{¶37} For the reasons set forth above, the judgment of the Trumbull County Court of Common Please is affirmed.

MATT LYNCH, P.J.,

SCOTT LYNCH, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignment of error is without merit. It is the judgment and order of this court that the judgment of the Trumbull County Court of Common Pleas is affirmed.

Costs shall be taxed against appellant.

JUDGE ROBERT J. PATTON

PRESIDING JUDGE MATT LYNCH,
concurs

JUDGE SCOTT LYNCH,
concurs

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.