

IN THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
MONTGOMERY COUNTY

STATE OF OHIO

Appellee

v.

DYLAN BOYD

Appellant

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C.A. No. 30696

Trial Court Case No. 2023 CR 00291

(Criminal Appeal from Common Pleas  
Court)

**FINAL JUDGMENT ENTRY &  
OPINION**

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Pursuant to the opinion of this court rendered on September 25, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



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CHRISTOPHER B. EPLEY, JUDGE

LEWIS, P.J., and HANSEMAN, J., concur.

**OPINION**  
MONTGOMERY C.A. No. 30696

KAREN OAKLEY, Attorney for Appellant  
ANDREW T. FRENCH, Attorney for Appellee

EPLEY, J.

{¶ 1} Dylan Boyd appeals the denial of his petition for postconviction relief by the Montgomery County Common Pleas Court. Boyd asserts that he received ineffective assistance of counsel, that the gun specification attached to his conviction was not based on sufficient evidence, and that the verdicts from the jury trial and the bench trial were inconsistent. For the following reasons, the judgment of the trial court is affirmed.

**I. Facts and Procedural History**

{¶ 2} On February 8, 2023, Boyd was indicted on one count of attempted murder, two counts of aggravated robbery, two counts of aggravated assault, and one count of having weapons while under disability. Boyd was tried by a jury on all counts except having weapons while under disability, and the jury acquitted him on all the charges. The charge of having weapons while under disability was tried to the bench, and the trial court found him guilty of that offense.

{¶ 3} On March 21, 2024, Boyd was sentenced to 36 months in prison, which was ordered to be served consecutively to the mandatory three-year firearm specification attached to the charge. Boyd was also required to serve the 713 days remaining on his post-release control arising from his prior conviction in 2012.

{¶ 4} Boyd filed a direct appeal of his conviction, which we affirmed. *State v. Boyd*, 2025-Ohio-984 (2d Dist.). However, on November 13, 2024, while his direct appeal was pending, Boyd filed a petition for postconviction relief. Boyd claimed that he did not receive

a fair trial because his counsel was ineffective. Boyd stated that his counsel was aware that Boyd's girlfriend had received threatening text messages, but counsel lied to the trial court and denied having knowledge of any such messages. According to Boyd, this lie impacted the outcome of the bench trial and caused the court to find him guilty of having weapons while under disability.

{¶ 5} The trial court disagreed with Boyd's assertion. The court found that Boyd's defense counsel had acknowledged the text messages during a sidebar but that counsel had informed the court that he did not believe the messages were threatening and that he could not determine who sent them. The trial court therefore denied Boyd's petition for postconviction relief.

{¶ 6} Boyd now appeals the trial court's judgment, raising one assignment of error.

## **II. Appellate Review**

{¶ 7} In his sole assignment of error, Boyd asserts that the trial court erred when it denied his petition for postconviction relief. A petition for postconviction relief is a civil attack of a criminal judgment and allows the petitioner to present constitutional issues to the court that would otherwise be impossible to review because the evidence supporting these issues is not included in the record of the petitioner's criminal conviction. *State v. McCain*, 2021-Ohio-4337, ¶ 13 (2d Dist.).

{¶ 8} We review a trial court's denial of a postconviction relief petition under an abuse of discretion standard. *Id.* at ¶ 16. To constitute an abuse of discretion, a trial court's action must be arbitrary, unreasonable, or unconscionable. *Id.*

### **A. Res Judicata**

{¶ 9} Although the majority of Boyd's issue on appeal relates to the contention that his counsel provided ineffective assistance, he also asserts that his conviction was based

on insufficient evidence and that the jury verdict and bench trial verdicts were inconsistent. These issues are barred by res judicata.

**{¶ 10}** It is well established that res judicata precludes consideration of issues that were or could have been raised on direct appeal. *State v. Saxon*, 2006-Ohio-1245, ¶ 17; *State v. Shah*, 2023-Ohio-2328, ¶ 12 (2d Dist.). Under this doctrine, “a final judgment of conviction bars a convicted defendant who was represented by counsel 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 . . . on an appeal from that judgment.” *State v. Perry*, 10 Ohio St.2d 175 (1967), paragraph nine of the syllabus; *State v. Moody*, 2024-Ohio-864, ¶ 15 (2d Dist.). “Thus, the doctrine serves to preclude a defendant who has had his day in court from seeking a second on that same issue. In so doing, res judicata promotes the principles of finality and judicial economy by preventing endless relitigation of an issue on which a defendant has already received a full and fair opportunity to be heard.” *Saxon* at ¶ 18.

**{¶ 11}** Boyd not only failed to raise any issues related to the sufficiency of the evidence or inconsistent verdicts in his petition for postconviction relief, but he also failed to raise those issues in the direct appeal of his conviction. If Boyd wished to raise those matters, he was required to do so as part of his direct appeal. He cannot now attempt to appeal his conviction for a second time, relying on different legal theories that he could have raised previously.

**{¶ 12}** To the extent that Boyd’s assignment of error pertains to the sufficiency of the evidence or consistency of the verdicts, it is overruled.

## **B. Ineffective Assistance of Counsel**

{¶ 13} Boyd's sole assignment of error also pertains to his assertion that his trial counsel was ineffective. Boyd contends that his counsel's failure to inform the court of threatening text messages allegedly received by one of the witnesses impacted the outcome of the bench trial and led to Boyd's conviction of having weapons while under disability.

{¶ 14} "We review the alleged instances of ineffective assistance of trial counsel under the two-prong analysis set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), and adopted by the Supreme Court of Ohio in *State v. Bradley*, 42 Ohio St.3d 136 (1989)." *State v. Clinard*, 2011-Ohio-876, ¶ 50 (2d Dist.). "Pursuant to those cases, trial counsel is entitled to a strong presumption that his or her conduct falls within the wide range of reasonable assistance." *Id.*, citing *Strickland* at 688.

{¶ 15} To establish ineffective assistance of counsel, a defendant must demonstrate both that (1) trial counsel's conduct was deficient, and (2) trial counsel's deficient performance prejudiced the defense. *State v. Irvin*, 2025-Ohio-1082, ¶ 14 (2d Dist.). The "benchmark" for determining ineffectiveness is "whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced just a result." *Id.*, quoting *Strickland* at 686.

{¶ 16} The first prong "requires showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id.*, citing *Strickland* at 687. Hindsight is not permitted to distort the assessment of what was reasonable in light of counsel's perspective at the time, and a debatable decision concerning trial strategy cannot form the basis of a finding of ineffective assistance of counsel. *Id.* at ¶ 15.

{¶ 17} The second prong requires a showing that the errors were serious enough to create a reasonable probability that, but for the errors, the outcome of the case would have been different. *Id.* at ¶ 16. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id.*, quoting *Strickland* at 694.

{¶ 18} The record of the trial court’s sidebar with Boyd’s trial counsel and the prosecutor establishes that Boyd’s trial counsel acknowledged to the trial court that a witness had sent him text messages she had allegedly received near the time of her testimony and that she believed the messages to be threatening. However, Boyd’s counsel stated that he could not validate where the messages came from and that he did not believe that the messages constituted threats toward the witness. Rather, Boyd’s counsel stated that if he had received text messages that appeared to show that the witness was being threatened, he would have turned those messages over to the prosecutor and the court.

{¶ 19} Notably, during the pendency of his petition for postconviction relief, Boyd filed a “Notice of Judgment from Supreme Court Disciplinary Counsel.” This filing included a letter from Ohio’s senior assistant disciplinary counsel in response to a bar complaint Boyd made against his trial counsel. In the letter, disciplinary counsel stated that when Boyd’s trial counsel was interviewed regarding Boyd’s complaint, trial counsel acknowledged that the witness had emailed him copies of several threatening text messages, but he had been unaware of them until several days after the trial concluded. Disciplinary counsel characterized the sidebar statements of Boyd’s counsel as “mischaracterizations” rather than lies. However, this letter was not attached to Boyd’s petition for postconviction relief, and it is unclear whether the trial court considered the contents of the letter when it overruled the petition.

**{¶ 20}** The record before us, though, is clear that Boyd’s defense counsel did not lie to the trial court regarding the text messages. Rather, he answered truthfully based on the information he was aware of at the time. This conduct is not so erroneous that it constituted a failure of his obligation to act as Boyd’s counsel as guaranteed under the Sixth Amendment. The trial court further noted that the decision whether to present certain evidence is a matter of trial strategy and that Boyd’s counsel chose to present the court with an “alternate theory of events supported by rigorous cross examination of witnesses” and additional testimony. We agree with the trial court’s reasoning that although this strategy was unsuccessful with respect to the charge of having weapons while under disability, this does not mean that Boyd’s counsel rendered ineffective assistance.

**{¶ 21}** Moreover, there is nothing in the record to suggest that the trial court’s verdict would have been different if it had been aware of the text messages. Aside from Boyd’s own speculation, he does not offer any proof that the text messages at issue would have altered the trial court’s determination as to the witness’s credibility at all, much less to such an extent that it would have altered its verdict. Therefore, he fails to establish a claim of ineffective assistance of counsel.

**{¶ 22}** Boyd’s assignment of error is overruled.

### **III. Conclusion**

**{¶ 23}** The trial court’s judgment is affirmed.

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LEWIS, P.J., and HANSEMAN, J., concur.