[Cite as *State v. Jeffers*, 2026-Ohio-4308.]

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

STATE OF OHIO	:	
	:	C.A. No. 2026-CA-22
Appellee	:	
	:	Trial Court Case No. 23-CR-0660
v.	:	
	:	(Criminal Appeal from Common Pleas
DANNY JEFFERS	:	Court)
	:	
Appellant	:	**FINAL JUDGMENT ENTRY & OPINION**

. . . . . .

Pursuant to the opinion of this court rendered on October 30, 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,



MARY K. HUFFMAN, JUDGE

TUCKER, J., and HANSEMAN, J., concur.

OPINION
CLARK C.A. No. 2026-CA-22

ERIC J. ALLEN, Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

HUFFMAN, J.

{¶ 1} Danny Jeffers appeals from the trial court's denial of his petition for postconviction relief. For the reasons that follow, the judgment of the trial court is affirmed.

Facts and Procedural History

{¶ 2} In March 2024, Jeffers was found guilty, following a jury trial, on three counts of felonious assault, each with a firearm specification, and he was sentenced to an aggregate term of 17 to 21 years. This court set forth the lengthy factual history of the case in affirming his convictions in *State v. Jeffers*, 2025-Ohio-989, ¶ 4-28 (2d Dist.). The events giving rise to this matter began on August 4, 2023, when Jeffers fired multiple shots on his property while his neighbors, Brian James and his wife, were conducting a large garage sale at a Ballantine Pike address with many patrons in attendance. Several members of law enforcement arrived on the report of shots fired, including Deputy Douglas Peterson of the Clark County Sheriff's Office and Chief Michael Stitzel of the German Township Police Department.

{¶ 3} James, Peterson, and Stitzel proceeded to a shed on James's property to check for gunshot damage after James reported hearing "pings" from the area of the shed. They discovered bullet strikes on the shed. As they began to return to James's home, they were fired upon by Jeffers, causing them to go to the ground to escape the gunfire. Officers spoke to Jeffers, and he showed them the weapon he had been firing, as well as a pathway down which he was allegedly shooting toward a "back stop" to a shooting range on his property.

Jeffers was not immediately detained, but the following day, weapons were removed from his home by the sheriff's office.

{¶ 4} On October 3, 2023, Officer Cody Anderson of the Springfield Police Department Crime Scene Investigations Unit responded to Jeffers's address to assist the sheriff's office. He conducted aerial photography of the scene and prepared a report about which he testified at trial. He identified seven points of interest on an aerial photo of the scene, including the rear area of Jeffers's home (near the center of the aerial photo); a "bench rest" at the top of the shooting range to the left of Jeffers's home; the backstop to the shooting range; a bale of hay with a suspected bullet strike; the shed with two suspected bullet strikes; and a symbol marking the approximate location of James, Peterson, and Stitzel when Jeffers fired at them.

{¶ 5} Jeffers was convicted on March 27, 2024, following a trial by jury. Disposition occurred on April 23, 2024.[1] On June 11, 2025, Jeffers filed a petition for postconviction relief, alleging prosecutorial misconduct. He attached the affidavit of his girlfriend, Margaret Bickenheuser, and multiple exhibits. The State responded on July 1, 2025. On February 5, 2026, the court overruled the petition, and Jeffers appealed.

Assignments of Error and Analysis

{¶ 6} Jeffers asserts four assignments of error, which we consider together; for ease of analysis, however, we consider them out of order. First, Jeffers argues that the trial court failed to make mandatory findings of fact and conclusions of law in overruling his petition for postconviction relief. In his third assignment of error, Jeffers claims that the trial court erred in applying res judicata to his claims. This is so, he argues, because Bickenheuser's affidavit

1. Following our decision in *Jeffers*, the trial court modified Jeffers's sentence to require the third firearm specification be served concurrently with the other firearm specifications.

and the security video attached thereto were "matters outside of the record" and "material to the proceedings."

{¶ 7} In his second assignment of error, Jeffers claims that the trial court erred in not finding that he demonstrated prosecutorial misconduct. Specifically, he asserts that Bickenheuser's affidavit established that the weapon produced by the State in its case in chief was not the weapon he fired on the date of the shooting. Further, Jeffers argues that Bickenheuser's affidavit "shows that there was no possible way for [him] to be standing on the porch, firing at the officers in the backyard," because video shows him "walking back from the shooting range at the time of the shooting." According to Jeffers, Bickenheuser's affidavit and the video establish that, "at best, the police and prosecutors guessed how this incident occurred," and "[t]he worst of it is that they manipulated the evidence to fit their narrative."

{¶ 8} Finally, Jeffers asserts that the trial court erred in not holding a hearing on his petition. He claims that "there was a legitimate concern that the gun presented to the jury as the gun used by the prosecution in [his trial] was . . . the gun that was shot towards the police." He argues that an evidentiary hearing would have elucidated "the truth" for the court.

{¶ 9} R.C. 2953.21 governs petitions for postconviction relief. "A petition for 'postconviction relief is a means by which the petitioner may present constitutional issues to the court that would otherwise be impossible to review because the evidence supporting those issues is not contained in the record of the petitioner's criminal conviction.'" *State v. Mott*, 2022-Ohio-2894, ¶ 10 (2d Dist.), quoting *State v. Monroe*, 2015-Ohio-844, ¶ 37 (10th Dist.). The postconviction relief process is a civil collateral attack on a criminal judgment and is not an appeal of the judgment. *State v. Calhoun*, 86 Ohio St.3d 279, 281 (1999).

{¶ 10} The petitioner "may file a supporting affidavit and other documentary evidence in support of the claim for relief." R.C. 2953.21(A)(1)(b). The trial court is required to consider the petition and any supporting affidavits and documentary evidence. R.C. 2953.21(D). When the evidence a defendant relies on is outside the record, "that evidence must meet a threshold of cogency." *State v. Hill*, 2005-Ohio-3176, ¶ 8 (2d Dist.), citing *State v. Lawson*, 103 Ohio App.3d 307 (12th Dist. 1995). "Cogent evidence is that which is more than '"marginally significant"' and advances a claim '"beyond mere hypothesis and desire for further discovery."'" *Id.*, quoting *Lawson* at 315, quoting *State v. Coleman*, 1993 WL 75756, *7 (1st Dist. Mar. 17, 1993).

{¶ 11} A postconviction relief petitioner is not automatically entitled to a hearing. *Calhoun* at 282. Instead, "a trial court has a gatekeeping role as to whether a defendant will even receive a hearing." *State v. Gondor*, 2006-Ohio-6679, ¶ 51. Before granting a hearing on a petition, the trial court shall determine whether there are substantive grounds for relief. *State v. Perry*, 2016-Ohio-4582, ¶ 24 (2d Dist.). It is the petitioner's initial burden to provide evidence containing sufficient operative facts to show a cognizable claim of constitutional error. *State v. Kapper*, 5 Ohio St.3d 36, 37-38 (1983). "A petitioner is not entitled to a hearing if his claim for relief is belied by the record and is unsupported by any operative facts other than [his or her] own self-serving affidavit or statements in [the] petition, which alone are legally insufficient to rebut the record on review." *Id.* "Broad conclusory allegations are insufficient, as a matter of law, to require a hearing." *State v. Coleman*, 2005-Ohio-3874, ¶ 17 (2d Dist.).

{¶ 12} "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." R.C. 2953.21(H). "Sufficient findings of fact and conclusions of law are those that

are comprehensive and pertinent to the issues presented, demonstrate the basis for the decision by the trial court, and are supported by the evidence." *State v. Henry*, 2017-Ohio-7427, ¶ 17 (2d Dist.), citing *Calhoun*, 86 Ohio St.3d 279, at paragraph three of the syllabus.

{¶ 13} In *State v. Goldwire*, 2005-Ohio-5784, ¶ 11 (2d Dist.), this court discussed the role the doctrine of res judicata plays in the analysis of petitions for postconviction relief:

> "The most significant restriction on Ohio's statutory procedure for postconviction relief is that the doctrine of res judicata requires that the claim presented in support of the petition represent error supported by evidence outside the record generated by the direct criminal proceedings." *State v. Monroe*, Franklin App. No. 04AP-658, 2005-Ohio-5242. "Under the doctrine of res judicata, 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." *State v. Perry* (1967), 10 Ohio St.2d 175, 180, 226 N.E.2d 104. "Our statutes do not contemplate relitigation of those claims in postconviction proceedings where there are no allegations to show that they could not have been fully adjudicated by the judgment of conviction and an appeal therefrom." *Id.* "To overcome the res judicata bar, the petitioner must produce new evidence that renders the judgment void or voidable, and show that he could not have appealed the claims based upon information contained in the original record." *State v. Aldridge* (1997), 120 Ohio App.3d 122, 151, 697 N.E.2d 228. "'Res judicata also implicitly bars a petitioner from 'repackaging' evidence or issues which either were, or could

have been, raised, in the context of the petitioner's trial or direct appeal.[']" *Monroe*.

{¶ 14} "For a defendant to avoid dismissal of the petition by operation of res judicata, the evidence supporting the claims in the petition must be competent, relevant, and material evidence outside the trial court record, and it must not be evidence that existed or was available for use at the time of trial." *State v. Jackson*, 2007-Ohio-1474, ¶ 21 (10th Dist.). "Therefore, to overcome the res judicata bar, it is not sufficient for the petitioner to simply present evidence outside the record, he must also demonstrate that the evidence was not available at the time of his trial, or at the time of his direct appeal." *State v. Jones*, 2002-Ohio-6914, ¶ 19 (11th Dist.). "Examples of evidence that [is] dehors the record and not in existence or available at the time of trial that would overcome res judicata would include: evidence withheld by the state; an affidavit by a witness sworn to after the trial in which the witness states that his testimony at trial was false; and, a DNA finding in cases that were heard before the use of DNA evidence." *Id.* at ¶ 19, fn. 2.

{¶ 15} We review a trial court's denial of postconviction relief under R.C. 2953.21 for an abuse of discretion. *State v. White*, 2008-Ohio-1623, ¶ 45. "The term 'abuse of discretion' has been defined as a decision that is unreasonable, arbitrary, or unconscionable." *State v. Howard*, 2014-Ohio-4602, ¶ 8 (2d Dist.).

1. Sufficient Findings of Fact and Conclusions of Law

{¶ 16} While the court's decision does not delineate findings of fact and conclusions of law as such, we conclude that the court provided a sufficient basis to support its decision. The court found as follows:

> The defendant has raised one (1) argument in this PCR petition revolving around his allegation that the State presented false evidence at trial.

> The Court finds that the defendant's claim is res judicata because it has already been raised, or could have been raised, on direct appeal. Attached to his petition is an affidavit by a person who could have testified at trial, but she did not.
>
> Furthermore, his allegation that "there was no possible way for the petitioner to be standing on the porch firing at officers in the back yard" lacks merit because this was a jury question resolved at trial with three felonious assault convictions. Moreover, those felonious assault convictions were affirmed by the Second District Court of Appeals in its March 21, 2025 opinion wherein the court stated, "Having reviewed the entire record, we conclude that Jeffers's conviction was not against the manifest weight of the evidence and was, accordingly, supported by sufficient evidence."

{¶ 17} Bickenheuser did in fact testify at trial that Jeffers "had been firing a .223 caliber pistol at the range on the date of the shooting," and that "from where [he] was firing at the shooting range to the area where [James, Peterson, and Stitzel] hit the ground was obscured by trees." *Id.* at ¶ 22. However, she did not testify about the alleged evidence on which Jeffers relied in his petition for postconviction relief—namely that the gun presented at trial was not the gun that he fired on August 4, 2023, and was thus "false evidence," and that her home security video established that Jeffers could not have been standing on the back porch firing at the officers because he was at the shooting range. As the court found, these claims were based on evidence available at the time of trial. The claims could have been raised on direct appeal but were not, such that res judicata barred consideration of the evidence. The trial court's findings of fact and conclusions of law were sufficient and

demonstrated the basis for its decision. In the absence of an abuse of discretion, Jeffers's first assignment of error is overruled.

2. Res Judicata Applied to Jeffers's Petition

{¶ 18} Regarding Jeffers's claim that Bickenheuser's affidavit and accompanying security video constitute material evidence outside the record, such that res judicata does not apply, we disagree. Bickenheuser's affidavit stated, in relevant part:

> After the criminal trial of Danny Jeffers, the discovery material did not make sense to me. I was home when this event occurred. Dan was not standing at the red "x" area made out by the prosecutor. This can be proven with my security camera footage. I was not in the trial when much of the discovery was gone over because of being the last to testify so it took some time for me to understand what had transpired in the trial. . . . Dan kept telling me something wasn't right about the weapon shown at trial. He was so upset and having so much trouble with his heart in afib, he could not think straight is what he told me over the phone from jail. I picked up the balance of possessions after the trial. The AR style weapon of mine was missing but the Sheriff Dept. gave me back Dan's weapons. I was confused. We have separate safes and weapons.
>
> I sat down with all our receipts from purchases with serial numbers on them, the photos from Clark County Sheriff Facebook page, the evidence receipts from two different days, 8/4 and 10/3/2023, and video footage from my system. I can prove that the weapon shown in the trial was purchased after 8/4/23 "the event" and was purchased and registered to me. It was not Dan's weapon.

{¶ 19} Bickenheuser's affidavit directs our attention to the attached Exhibit J. According to Bickenheuser, a portion thereof is an evidence receipt "from day of event with serial number and weapon Dan Jeffers was firing." The receipt reflects, in part, that a deputy from the Clark County Sheriff's Office received two "A-R-Pistol[s]" from Bickenheuser on August 5, 2023. The portions of the security video reflect Jeffers speaking to law enforcement on his front porch and asking, "Do you want to see the gun I shoot so you can see why it might be so loud?" He stated that it was a .223 caliber weapon. Bickenheuser is visible in multiple portions of the video, and at one point, multiple very loud gunshots are heard.

{¶ 20} The exhibits attached to Bickenheuser's affidavit existed prior to trial, and they are accordingly not competent evidence outside the trial court record for purposes of postconviction relief. The record is clear that Bickenheuser and Jeffers lived together at the time of the shooting, and Jeffers would have been aware of their security system recording daily events. Thus, the court properly applied res judicata to Jeffers's petition.

3. Prosecutorial Misconduct Is Not Demonstrated

{¶ 21} Even if we were to conclude that res judicata did not apply, prosecutorial misconduct is not demonstrated. "Generally, prosecutorial misconduct will not provide a basis for overturning a conviction unless, on the record as a whole, the misconduct can be said to have deprived the defendant of a fair trial." *State v. Buck*, 2017-Ohio-8242, ¶ 56 (1st Dist.), citing *State v. Lott*, 51 Ohio St.3d 160, 166 (1990). "The test for whether prosecutorial misconduct mandates reversal is whether the prosecutor's remarks or actions were improper, and, if so, whether they prejudicially affected the substantial rights of the accused." *Id.*, citing *State v. Smith*, 2002-Ohio-6659, ¶ 45. "In a claim of prosecutorial misconduct based on the use of false or perjured testimony, the defendant has the burden

to 'show that "(1) the statement was actually false; (2) the statement was material; and (3) the prosecution knew it was false."'" *Id.* at ¶ 75, quoting *State v. Iacona*, 93 Ohio St.3d 83, 97 (2001), quoting *United States v. Lochmondy*, 890 F.2d 817, 822 (6th Cir. 1989). "Where it is clear beyond a reasonable doubt that a jury would have found the defendant guilty even absent the alleged misconduct, the defendant has not been prejudiced, and his conviction will not be reversed." *State v. Stevenson*, 2008-Ohio-2900, ¶ 42 (2d Dist.), citing *State v. Loza*, 71 Ohio St.3d 61, 78 (1994).

{¶ 22} In his petition, Jeffers alleged that the State "presented two pieces of false evidence" at trial. He claimed that Bickenheuser's affidavit showed that the weapon produced at trial was not the weapon used at the scene, and if "the gun presented to the jury was a completely separate one, its relevance to the proceedings is unknown." He further argued that the security video established that he was walking back from the firing range at the time of the shooting. Finally, Jeffers asserted that "[t]his also calls into question the calculations done by the deputy from his drone footage. In short, the entire case against the petitioner has been false."

{¶ 23} Jeffers' claims of prosecutorial misconduct fail for two reasons. Namely, he failed to submit competent evidence outside the record in his support of his claim, and despite any suggestion that the wrong weapon was admitted into evidence, the direct testimony of Peterson, Stitzel, and James established the elements of felonious assault. *See State v. Nix*, 2004-Ohio-5502 (1st Dist.) ("[T]here is no rule of law that a witness's testimony be corroborated by physical evidence such as . . . the weapon allegedly used by the accused. . . . [T]his record contains more than sufficient evidence in the form of witness testimony . . . .").

{¶ 24} Peterson testified that he, James, and Stizel were shot at as they began to return to James's home after investigating the bullet damage to the shed. *Jeffers*, 2025-Ohio-989, at ¶ 4 (2d Dist.). Based on his training and experience, Peterson believed the gunfire was very close because he heard a whistling sound by his head. *Id.* at ¶ 5. Peterson's body camera was played for the jury, and he testified that he had been walking backwards to provide cover for James and Stitzel until they could reach an area of safety. *Id.* James testified that as the men walked back to his property, "he heard a 'whoosh' or 'whistling sound' going right by their heads." *Id.* at ¶ 10. He dropped to the ground and began a "'death crawl'" in an effort to escape. *Id.* Stitzel also testified to hearing an "abundance of gunfire" going by their heads, and he believed that they were under deliberate attack. *Id.* at ¶ 18.

{¶ 25} Bickenheuser "testified that Jeffers had been firing a .223 caliber pistol at the range on the date of the shooting." *Id.* at ¶ 23. Further, "Jeffers testified that on August 4, 2023, he was test firing an AR-15 pistol on his gun range." *Id.* at ¶ 25. Deputy Bowers testified that Jeffers showed him the weapon he had been firing, and Bowers described it as a .223 caliber AR-15 weapon with a drum magazine. There "was no evidence adduced that anyone but Jeffers was firing a weapon on August 4, 2023." *Id*. at ¶ 40. Based on the foregoing, it is clear that the jury would have found Jeffers guilty even in the absence of the alleged misconduct. Jeffers's second assignment of error is overruled.

4. Jeffers Was Not Entitled to a Hearing

{¶ 26} Finally, we disagree with Jeffers's claim that he was entitled to hearing on his petition for postconviction relief. The trial court properly executed its gatekeeping role, and no substantive grounds for relief were demonstrated. The court made sufficient findings of fact and conclusions of law, and res judicata applied to Jeffers's claims. Accordingly, Jeffers's fourth assignment of error is overruled.

Conclusion

{¶ 27} Having overruled Jeffers's assignments of error, the judgment of the Clark County Common Pleas Court is affirmed.

. . . . . .

TUCKER, J., and HANSEMAN, J., concur.