

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
HARDIN COUNTY**

STATE OF OHIO,

CASE NO. 6-26-11

PLAINTIFF-APPELLEE,

v.

DUSTIN RAY CLAPSADDLE,

**OPINION AND
JUDGMENT ENTRY**

DEFENDANT-APPELLANT.

**Appeal from Hardin County Common Pleas Court
Trial Court No. 2026 1007 CVH**

Judgment Affirmed

Date of Decision: August 17, 2026

APPEARANCES:

***Bradley P. Koffel* for Appellant**

***Morgan S. Fish* for Appellee**

ZIMMERMAN, P.J.

{¶1} Defendant-appellant, Dustin Ray Clapsaddle (“Clapsaddle”), appeals the February 23, 2026 judgment entry of the Hardin County Court of Common Pleas denying his petition for postconviction relief. For the reasons set forth below, we affirm.

{¶2} This case stems from a sexual assault that took place on or about January 18, 2019. At the time of the sexual assault, Clapsaddle was a teacher and the victim, T.M., was a 17-year-old student in Clapsaddle’s government class during her junior year of high school. T.M. did not report the sexual assault until three years later.

{¶3} On August 16, 2023, the Hardin County Grand Jury indicted Clapsaddle on Count One of rape in violation of R.C. 2907.02(A)(2), (B), a first-degree felony; Count Two of sexual battery in violation of R.C. 2907.03(A)(7), (B), a third-degree felony; Count Three of gross sexual imposition (“GSI”) in violation of R.C. 2907.05(A)(1), (C)(1), a fourth-degree felony; and Count Four of kidnapping in violation of R.C. 2905.01(A)(4), (C)(1), a first-degree felony. On August 23, 2023, Clapsaddle appeared for arraignment and entered pleas of not guilty to the counts alleged in the indictment.

{¶4} The case proceeded to jury trial on June 25-28, 2024. Prior to voir dire examination of prospective jurors, the following exchange took place regarding plea negotiations.

[THE STATE]: Your Honor, since the last time we were here, we did extend an offer at the defendant's request for plea negotiations. It's my understanding, I guess, since we're here today, that that's been rejected. But we would ask that that be read into the record and rejected on the record, Your Honor.

THE COURT: All right. Go ahead and read it into the record the offer that's on the table.

[THE STATE]: Thank you, Your Honor.

MR. HORD: I object. I don't think it's relevant.

THE COURT: Well, read it into the record.

[THE STATE]: Thank you, Your Honor.

We had extended an offer to allow a plea of guilty to Count 2, a charge of sexual battery, a felony of the third degree, with the balance of the indictment and specifications dismissed. Knowing that he would pay court cost, cost of prosecution, a potential fine, have no contact with [T.M.], we would not oppose a PSI. He was entitled to some jail credit. And that the parties had no joint sentencing recommendation and each side was free to make any arguments as to the disposition and sentencing recommendation, Your Honor.

THE COURT: All right. Defense counsel, I don't care which one of [you] want to respond to my questions. One of you need to.

Is that what you understood the offer of the State to be[?]

MR. RATLIFF: Correct, Your Honor.

We presented this to the defendant and he declined.

THE COURT: Okay. Mr. Clapsaddle, I'm going to talk to you directly very briefly. Did you hear what the State said they offered you to get you to plead in this case to avoid the trial?

[CLAPSADDLE]: Yes.

THE COURT: Did you have plenty of time to discuss that with your attorneys?

[CLAPSADDLE]: Yes.

THE COURT: Did they review with you the potential outcomes of going to trial, both from the possibility of going to trial, be found not guilty on some or all of the charges, and the possibility of going to trial and being found guilty on some or all of the charges?

[CLAPSADDLE]: Yes.

THE COURT: Did they go through with you the penalties, including the maximum penalties, of what you might receive if you accepted this offer, as well as the whole range of possibilities if you go to trial and lose on one or more charges?

[CLAPSADDLE]: Yes.

THE COURT: Are you at this point satisfied with the services that your attorneys have rendered to you?

[CLAPSADDLE]: Yes.

THE COURT: Have they kept you informed as to the status of your case?

[CLAPSADDLE]: They have.

THE COURT: Have they answered any and all questions that you've had about your case so far?

[CLAPSADDLE]: They have.

THE COURT: Does that include any questions that you may have had about the plea offer?

[CLAPSADDLE]: Yes.

THE COURT: Okay. Counsel, are you satisfied with my inquiry concerning the plea offer?

[THE STATE]: The State is, Your Honor.

MR. RATLIFF: Yes, Your Honor.

MR. HORD: Yes, Your Honor.

(June 25, 2024 Interview Tr. at 19-22).

{¶5} After jury selection and opening statements, the State presented its case-in-chief and T.M. testified about the sexual assault as follows:

That night, she attended a basketball game at the high school as a cheerleader. Clapsaddle attended the game too. After T.M. left the game, she found a note on her car's windshield that said, "Meet me at the church." T.M. realized the note was from Clapsaddle and drove to the church, where she got in Clapsaddle's car. He then drove them to his house because he indicated he had something for her. Upon arriving there, Clapsaddle said he would be right back, but he did not return to the car. After a few minutes, T.M. wanted to go home so she went inside Clapsaddle's house and saw him sitting on the living room couch watching television.

According to T.M., Clapsaddle told her to follow him while he retrieved the item he had for her. So she followed Clapsaddle into his bedroom. When they got there, Clapsaddle showed her a memorabilia area and they talked. T.M. testified that she got an uncomfortable feeling, with Clapsaddle engaging in touching her arm and back, "things that were making [her] uncomfortable that . . . could've potentially led into something [she] didn't want it to lead into." (Trial Tr. at 373-374). T.M. then said she had to go and turned to leave the room. Clapsaddle—who T.M. indicated was significantly larger than her physically—came around her from behind, shut the door, and

placed his hand on the doorknob. T.M. testified she felt scared and knew she could not leave the room even though she wanted to leave in order to get out of the situation. Apart from Clapsaddle putting his hand on her back before he had shut the door, she could not recall specifically where he touched her. Clapsaddle pushed her down on the bed, with T.M. lying face down and crying, and Clapsaddle “proceeded to do whatever he wanted.” (*Id.* at 374). T.M. testified that her “body shut down,” Clapsaddle took off her pants, he had sex with her (penetrating her vagina with his penis), and it hurt. (*Id.* at 376-379). Afterward, Clapsaddle walked T.M. out to his car, acted like nothing happened, and drove her back to her car without saying anything about the incident.

State v. Clapsaddle, 2025-Ohio-4904, ¶ 2-3 (3d Dist.).

{¶6} Clapsaddle testified in his own defense at trial. Clapsaddle denied having any type of sexual relationship with T.M. Clapsaddle denied ever meeting T.M. at a church, picking her up in his car, and driving her to his house. Clapsaddle also denied ever restraining T.M. of her freedom or kidnapping her. When asked if any of the allegations against him are true, Clapsaddle replied, “No.” (Trial Tr. at 1128).

{¶7} On cross examination, Clapsaddle was asked, “[Y]ou testified here today, that you never had sex with [T.M.], correct?” (*Id.* at 1186-1187). Clapsaddle responded, “Correct.” (*Id.* at 1187). Clapsaddle was further asked, “You did not have sex with her in your home when she was a student?” (*Id.*). Clapsaddle replied, “Never.” (*Id.*).

{¶8} On June 28, 2024, the jury found Clapsaddle guilty on all four counts. The trial court merged all counts except the GSI count. The State elected to proceed

to sentencing on the rape count. The trial court sentenced Clapsaddle to nine years in prison for rape and 12 months in prison for GSI. The trial court ordered that the sentences be served consecutively for an aggregate prison term of ten years.

{¶9} On October 22, 2024, Clapsaddle appealed the trial court's judgment of sentence. In that direct appeal, we affirmed the judgment of the trial court. *Clapsaddle*, 2025-Ohio-4904, at ¶ 71 (3d Dist.).

{¶10} On January 8, 2026, Clapsaddle filed a petition for postconviction relief claiming that he received ineffective assistance of counsel at trial. Specifically, Clapsaddle alleged that the performance of his trial counsel was deficient for failing to advise him of (1) the elements of the offenses, (2) the benefits of pretrial plea negotiations, (3) the risks of proceeding to trial, and (4) a plea offer extended by the State. In support of his petition, Clapsaddle submitted his own affidavit containing the following relevant averments:

4. I met with Mr. Hord at the very beginning of the case, prior to turning myself in. At that meeting, I told Mr. Hord that I had engaged in sexual conduct with [T.M.] and that no force was used. I told him that the relationship ended and that [T.M.] came to my home on more than one occasion. Mr. Hord took notes during that meeting.

...

9. No one ever discussed plea bargaining with me in any meaningful way. I was never advised of a written plea offer from the State, I never saw the written plea offer (Ex. A), nor did my counsel ever discuss with me potential resolutions without a jury trial.

10. I was never advised of the risks of proceeding to trial such as the jury instruction on the definition of force, consecutive sentencing, mandatory prison term for rape.

...

14. At no point did either Mr. Hord or Mr. Ratliff explain my right to remain silent or the risks of testifying at trial. I was never advised how my testimony could be used against me or how cross-examination would likely unfold, particularly in light of the fact that counsel knew I had engaged in sexual conduct with [T.M.].

15. Shortly before trial, I received a very brief phone call from Rocky Ratliff stating that the State was offering to drop the charges other than sexual battery. I had no idea this was reduced to writing nor did he explain to me what it meant.

...

19. Had I been competently advised of the law, the evidence, the realistic likelihood of conviction, and the sentencing exposure I faced, and with other counsel, I would have very likely accepted a plea resolution to sexual battery rather than proceed to trial on rape, kidnapping, gross sexual imposition and sexual battery.

(Doc. No. 1; Clapsaddle Aff.).¹

{¶11} The petition also included affidavits from Clapsaddle’s trial counsel, Terry L. Hord and Rocky Ratcliff, refuting Clapsaddle’s allegations. Notably, Mr. Hord’s affidavit avers that “[a]t no time, has Dustin Clapsaddle or his parents ever stated to me or anyone else in my presence that Dustin was guilty of anything.”

(Doc. No. 1; Hord Aff. at ¶ 13). Similarly, Mr. Ratliff’s affidavit attests, “I have

¹ We note that even though Clapsaddle’s affidavit references an exhibit A—presumably the State’s written plea offer—the record before us does not include such exhibit.

never at any time had a conversation with Mr. Clapsaddle or his family where either one stated that Mr. Clapsaddle was guilty of anything.” (Doc. No. 1; Ratliff Aff. at ¶ 19). Mr. Ratliff’s affidavit further attests that “when the offer was presented to Mr. Clapsaddle, he outright refused to accept said offer and continually denied his guilt.” (*Id.* at ¶ 14). Both affidavits state that trial counsel advised Clapsaddle of the ramifications of a jury trial and all potential outcomes, and that Clapsaddle consistently maintained his innocence and wanted to proceed to jury trial.

{¶12} On February 23, 2026, the trial court denied Clapsaddle’s petition. The trial court determined that an evidentiary hearing was not required because Clapsaddle “failed to provide credible evidence to support his allegations in favor of post-conviction relief.” (Doc. No. 8). “[Clapsaddle] chose to proceed to trial; this choice will not be overturned in view of the substantial consequences for his conviction.” (*Id.*).

{¶13} On March 20, 2026, Clapsaddle filed a notice of appeal, raising three assignments of error for our review. We will address the assignments of error together.

First Assignment of Error

The trial court erred and abused its discretion by denying, without an evidentiary hearing, Appellant’s petition for post-conviction relief on his claim that trial counsel was ineffective under *Missouri v. Frye* by failing to communicate and competently explain the State’s written May 24, 2024 plea offer.

Second Assignment of Error

The trial court erred and abused its discretion by denying, without an evidentiary hearing, Appellant’s petition on his claim that trial counsel was ineffective under *Lafler v. Cooper* by giving deficient plea-stage advice that caused rejection of a materially more favorable plea.

Third Assignment of Error

The trial court erred and abused its discretion by rejecting Appellant’s sworn affidavits and resolving contested, extra-record credibility questions on the pleadings.

{¶14} In all three assignments of error, Clapsaddle argues that the trial court improperly denied his petition for postconviction relief without first holding an evidentiary hearing. In particular, Clapsaddle alleges that his trial counsel was deficient for failing to show him the “written plea offer” and for failing to competently advise him regarding the offer. (Appellant’s Brief at 8). According to Clapsaddle, “counsel’s advice was constitutionally deficient and caused rejection.” (*Id.* at 10). Clapsaddle argues that he is entitled to an evidentiary hearing since “[t]he record does not conclusively refute [his] account.” (*Id.* at 9).

Standard of Review

{¶15} “We review a decision to grant or deny a petition for postconviction relief, including the decision whether to afford the petitioner a hearing, under an abuse-of-discretion standard.” *State v. Hatton*, 2022-Ohio-3991, ¶ 38. An abuse of discretion suggests the trial court’s decision is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

Analysis

{¶16} Petitions for postconviction relief are governed by R.C. 2953.21. *State v. Costell*, 2021-Ohio-4363, ¶ 16 (3d Dist.). ““Any person convicted of a criminal offense who claims that there was a denial or infringement on his rights to such a degree as to render the judgment void or voidable may file a petition for post-conviction relief.”” *Id.*, quoting *State v. Gaddy*, 2021-Ohio-637, ¶ 6 (3d Dist.), citing R.C. 2953.21(A)(1)(a).

{¶17} “In order to grant a hearing on a timely postconviction petition, the trial court must ‘determine whether there are substantive grounds for relief.’” *State v. Bunch*, 2022-Ohio-4723, ¶ 23, quoting R.C. 2953.21(D). In relevant part, R.C. 2953.21(D) provides:

Before granting a hearing on a petition . . . 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, including, but not limited to, the indictment, the court’s journal entries, the journalized records of the clerk of the court, and the court reporter’s transcript.

Thus, a petitioner is not entitled to an evidentiary hearing simply because he has filed a petition for postconviction relief. *State v. Lewis*, 2019-Ohio-3031, ¶ 11 (3d Dist.). Rather, to warrant a hearing, a petition must present substantive grounds for relief. *Id.* “A petition presents substantive grounds for relief when it contains allegations that are sufficient to state a constitutional claim *and the files and records*

of the case do not affirmatively disprove the claim.” (Emphasis added.) *State v. Blanton*, 2022-Ohio-3985, ¶ 24.

{¶18} Moreover, a petition for postconviction relief does not provide a petitioner a second opportunity to litigate his conviction. *Costell* at ¶ 18. 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 [claim] 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.”

Blanton at ¶ 25, quoting *State v. Perry*, 10 Ohio St.2d 175, 180 (1967). However, when a petition presents a claim of ineffective assistance of counsel and relies on evidence outside the record that could not have been adjudicated in a direct appeal, the ineffective-assistance claim is not barred by *res judicata*. *Blanton* at ¶ 38. *See also State v. Cole*, 2 Ohio St.3d 112, 114 (1982) (“Generally, the introduction in an R.C. 2953.21 petition of evidence *dehors* the record of ineffective assistance of counsel is sufficient, if not to mandate a hearing, at least to avoid dismissal on the basis of *res judicata*.”).

{¶19} To merit an evidentiary hearing on an ineffective-assistance claim, “a petitioner ‘must proffer evidence which, if believed, would establish not only that his trial counsel had substantially violated at least one of a defense attorney’s essential duties to his client but also that said violation was prejudicial to the [petitioner].’” *Blanton* at ¶ 31, quoting *Cole* at 114. In the context of a plea offer,

trial counsel can be deemed ineffective when, aware of the offer, they either fail to inform the client of the offer or encourage the client to reject the offer based on incorrect advice. *Missouri v. Frye*, 566 U.S. 134, 145 (2012). “To show prejudice from ineffective assistance of counsel where a plea offer has lapsed or been rejected because of counsel’s deficient performance, defendants must demonstrate a reasonable probability they would have accepted the earlier plea offer had they been afforded effective assistance of counsel.” *Frye* at 147.

{¶20} In this case, Clapsaddle’s petition presented allegations of ineffective assistance of counsel related to the State’s plea offer. In his affidavit, Clapsaddle averred that he told his trial counsel that he “had engaged in sexual conduct with [T.M.] and that no force was used.” (Doc. No. 1, Clapsaddle Aff. at ¶ 4). Clapsaddle further averred that—but for the deficient performance of his trial counsel—he would have accepted the plea offer and entered a plea of guilty to sexual battery. Since Clapsaddle proffered evidence outside the record in the form of affidavits to establish his ineffective-assistance claim, it must be determined whether that evidence, if believed, presents substantive grounds for relief. *Blanton*, 2022-Ohio-3985, at ¶ 32-33.

{¶21} Here, the trial court determined that Clapsaddle failed to present credible evidence to establish his ineffective-assistance claim. The trial court found that Clapsaddle failed to demonstrate any deficiency in the performance of his trial counsel or that the outcome of the criminal trial proceedings would have been any

different. In reaching its decision, the trial court considered the supporting affidavits together with the entirety of the record and found that “the affidavits are not consistent with the trial record; indeed, they frequently are significantly different than the trial record.” (Doc. No. 8). The trial court further found that “the credibility of affiants is negated, especially due to their inherent interest in the outcome of the petition.” (*Id.*). See *State v. Calhoun*, 86 Ohio St.3d 279, 284 (1999) (“The trial court may, under appropriate circumstances in postconviction relief proceedings, deem affidavit testimony to lack credibility without first observing or examining the affiant.”).

{¶22} On appeal, Clapsaddle argues that the trial court abused its discretion when it denied his petition without first holding an evidentiary hearing. According to Clapsaddle, “[w]here sworn affidavits describe private attorney-client communications and the responding affidavits do not squarely refute them, the credibility contest must be resolved through testimony.” (Appellant’s Brief at 9). We disagree.

{¶23} As previously stated, “[i]n order to grant a hearing on a timely postconviction petition, the trial court must ‘determine whether there are substantive grounds for relief.’” *Bunch*, 2022-Ohio-4723, at ¶ 23, quoting R.C. 2953.21(D).

In determining whether the petition states a substantive ground for relief, the trial court must consider the entirety of the record from the trial proceedings as well as any evidence filed by the parties in postconviction proceedings. *If the record on its face demonstrates*

that the petitioner is not entitled to relief, then the trial court must dismiss the petition.

(Emphasis added.) *Bunch* at ¶ 24. “A petition presents substantive grounds for relief when it contains allegations that are sufficient to state a constitutional claim *and the files and records of the case do not affirmatively disprove the claim.*”

(Emphasis added.) *Blanton*, 2022-Ohio-3985, at ¶ 24.

{¶24} Based on our review of the record, we conclude that the trial court did not abuse its discretion by denying Clapsaddle’s petition without a hearing. Even though Clapsaddle avers in his supporting affidavit that—had he been competently advised by trial counsel—he would have accepted the State’s plea offer and entered a plea of guilty to sexual battery, the files and records of this case affirmatively disprove this claim. *Blanton* at ¶ 24. Significantly, Clapsaddle testified at trial that he never had a sexual relationship with the victim. Further, he continued to profess his innocence at sentencing as follows:

The crimes I’ve been accused of are things I never would think about doing to someone, not in a million years. It’s not who I am. It’s not how I was raised. Your Honor, you’re seeing an innocent person here today, and I hope that weighs heavy on your decision.

(Oct. 7, 2024 Tr. at 35). We further conclude that the trial court’s finding that Clapsaddle failed to provide credible evidence to support his ineffective-assistance claim is not unreasonable, arbitrary, or unconscionable. *Calhoun* at 285 (stating that “a trial court may find sworn testimony in an affidavit to be contradicted by evidence in the record by the same witness, or to be internally inconsistent, thereby

weakening the credibility of that testimony”). Accordingly, Clapsaddle’s first, second, and third assignments of error are overruled.

{¶25} Having found no error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the judgment of the trial court.

Judgment Affirmed

WILLAMOWSKI and WALDICK, J.J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignments of error are overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. *See* App.R. 30.

William R. Zimmerman, Judge

John R. Willamowski, Judge

Juergen A. Waldick, Judge

DATED:
/hls