

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

STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 9-26-29

v.

JAJUAN ALLEN,

DEFENDANT-APPELLANT.

**OPINION AND
JUDGMENT ENTRY**

**Appeal from Marion County Common Pleas Court
Trial Court No. 2024-CR-0309**

Judgment Affirmed

Date of Decision: September 21, 2026

APPEARANCES:

Jajuan Allen, Appellant

ZIMMERMAN, P.J.

{¶1} Defendant-appellant, Jajuan Allen (“Jajuan”), pro se, appeals the March 11, 2026 judgment of the Marion County Court of Common Pleas dismissing his petition for postconviction relief. For the reasons set forth below, we affirm.

{¶2} The background facts of this case are set forth in the direct appeal of Jajuan’s co-defendant, Jalen Allen (“Jalen”), as follows:

On three different dates in the summer of 2024, the MARMET Drug Task Force utilized a confidential informant (“CI”) to make three substantial controlled buys of fentanyl from [Jalen] and [his] cousin, Jajuan. On each occasion the CI called Jajuan seeking to purchase a significant quantity of fentanyl.

For the first buy on July 31, 2024, the CI purchased two ounces of fentanyl for \$2,800 from Jajuan at a residence in Marion. [Jalen] was at the residence at the time of the sale but the CI did not know who he was yet. For the second and third drug buys, the CI called Jajuan and Jajuan was out of town but he directed the CI to meet with his “cousin,” [Jalen], to exchange money for fentanyl. [Jalen] sold the CI an ounce of fentanyl on August 9, 2024, for \$1,400, then another ounce of fentanyl on August 21, 2024 for \$1,820. When [Jalen] was arrested on August 23, 2024, \$1,720 of the “buy money” from the most recent controlled buy was found on his person.

State v. Allen, 2026-Ohio-884, ¶ 2-3 (3d Dist.).

{¶3} On August 28, 2024, the Marion County Grand Jury indicted Jajuan on one count of engaging in a pattern of corrupt activity in violation of R.C. 2923.32(A)(1), a first-degree felony; three counts of trafficking in a fentanyl-related compound in violation of R.C. 2925.03(A)(1), all first-degree felonies; and three counts of possession of a fentanyl-related compound in violation of R.C.

2925.11(A), all first-degree felonies. All counts against Jajuan were originally indicted with specifications seeking forfeiture of money under R.C. 2941.1417(A). Jalen was separately indicted for the same crimes.

{¶4} On September 3, 2024, Jajuan appeared for arraignment and entered pleas of not guilty to all counts alleged in the indictment.

{¶5} On February 24, 2025, the State filed a motion to join Jajuan's case and Jalen's case for trial. The State's motion was granted and the cases proceeded to a three-day jury trial on May 19-21, 2025. Prior to the cases being submitted to the jury, the State dismissed the forfeiture specifications. On May 21, 2025, the jury found Jajuan and Jalen guilty of all charges.

{¶6} On June 24, 2025, Jajuan's case proceeded to sentencing. The State conceded that the trafficking charges merged with the possession charges from each of the controlled buys. The State elected to proceed to sentencing on the trafficking charges, in addition to the charge of engaging in a pattern of corrupt activity. Jajuan was sentenced to serve an aggregate prison term of 15 years to 20.5 years.

{¶7} Jajuan timely appealed the trial court's judgment of sentencing. In that direct appeal, we reversed and remanded for further proceedings related to sentencing. *State v. Allen*, 2025-Ohio-5785, ¶ 13 (3d Dist.).

{¶8} On January 23, 2026, the trial court conducted a new sentencing hearing.

{¶9} On February 25, 2026, Jajuan filed a petition for postconviction relief under R.C. 2953.21 asserting that he received ineffective assistance of counsel at trial. In support of his petition, Jajuan submitted a copy of a search warrant filed in the Marion Municipal Court on September 10, 2024. The search warrant includes an affidavit of Lieutenant Richard Wheeler (“Lieutenant Wheeler”) setting forth the actions taken by law enforcement in Jajuan’s and Jalen’s cases and the probable cause to believe that the residence located at 291 Maple Street, Marion, Ohio, was used in furtherance of drug trafficking and/or drug possession.

{¶10} On March 11, 2026, the trial court dismissed Jajuan’s petition on the basis of res judicata. The trial court concluded that Jajuan failed to identify any extrinsic evidence in support of his claims of ineffective assistance of trial counsel, and that Jajuan could have raised these claims in his direct appeal.

{¶11} On April 9, 2026, Jajuan filed a notice of appeal. He raises a single assignment of error for our review.

Assignment of Error

The Trial Court Abused Its Discretion And Committed Prejudicial Error When It Denied The Appellant’s Petition For Postconviction Relief Without A Hearing And Further Alleging That Res Judicata Applied.

{¶12} In his sole assignment of error, Jajuan argues that the trial court abused its discretion by dismissing his petition for postconviction relief on the basis of res judicata.

Standard of Review

{¶13} “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

{¶14} “Postconviction review is not a constitutional right, but is a collateral civil attack on a judgment that is governed solely by R.C. 2953.21.” *State v. Richard*, 2025-Ohio-2943, ¶ 11 (3d Dist.), quoting *State v. Keith*, 2008-Ohio-741, ¶ 26 (3d Dist.). Under R.C. 2953.21(A)(1)(a)(i), a petition for postconviction relief may be filed by any person convicted of a criminal offense “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[.]”

{¶15} Pursuant to R.C. 2953.21(A)(1)(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.” In relevant part, R.C. 2953.21(D) provides:

Before granting a hearing on a petition [for post-conviction relief], 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. . . . If the court dismisses the petition, it shall make and file findings of fact and conclusions of law with respect to such dismissal. . . .

Thus, a petitioner is not automatically entitled to an evidentiary hearing when filing a postconviction petition. *Richard* at ¶ 12. “Rather, the petitioner must carry the initial burden of providing evidence of sufficient operative facts that demonstrate the alleged errors asserted in the petition.” *Id.* at ¶ 13. ““A postconviction relief petition may be denied, without a hearing, if the petition and its supporting evidentiary documents do not contain operative facts that would, if proven, establish a substantive ground for relief.”” *Id.*, quoting *State v. Sutherland*, 2025-Ohio-488, ¶ 16 (2d Dist.).

{¶16} Additionally, “a trial court may properly deny a petition for postconviction relief without holding a hearing if the claims in the petition are barred by res judicata.” *State v. Sutton*, 2025-Ohio-2487, ¶ 35 (3d Dist.). 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.”

State v. Blanton, 2022-Ohio-3985, ¶ 25, quoting *State v. Perry*, 10 Ohio St.2d 175, 180 (1967). Res judicata applies to postconviction review proceedings because the

postconviction process does not provide the petitioner a second opportunity to litigate his or her conviction. *State v. Lewis*, 2019-Ohio-3031, ¶ 13 (3d Dist.).

{¶17} “To overcome the res judicata bar, evidence offered [outside] the record must demonstrate that the petitioner could not have appealed the constitutional claim based upon information in the original record.” *Id.* at ¶ 14, quoting *State v. Slagle*, 2012-Ohio-1936, ¶ 16 (4th Dist.). “This means that the evidence relied upon must not be evidence which was in existence or available for use at the time of trial or direct appeal, and finally, cannot be merely cumulative of the evidence already presented.” *Lewis* at ¶ 14, quoting *State v. Murphy*, 2000 Ohio App. LEXIS 6129, *7-8 (10th Dist. Dec. 26, 2000).

{¶18} In the instant case, Jajuan’s petition was based on claims of ineffective assistance of trial counsel. To establish ineffective assistance of counsel, the appellant bears the burden of establishing “(1) deficient performance by counsel, i.e., performance falling below an objective standard of reasonable representation, and (2) prejudice, i.e., a reasonable probability that, but for counsel’s errors, the proceeding’s result would have been different.” *State v. Tench*, 2018-Ohio-5205, ¶ 264. An appellate court need not consider the facts of the case under both prongs of that standard if the appellant makes an insufficient showing on one. *Sutton*, 2025-Ohio-2487, at ¶ 17 (3d Dist.).

{¶19} With regard to the applicability of res judicata to claims of ineffective assistance of counsel, “since ‘counsel cannot realistically be expected to argue his

own incompetence, res judicata does not act to bar a defendant represented by the same counsel at trial and upon direct appeal from raising a claim of ineffective assistance of counsel in a petition for postconviction relief.” *State v. Lentz*, 70 Ohio St.3d 527, 529-530 (1994), quoting *State v. Cole*, 2 Ohio St.3d 112, 113, fn.1 (1982). But, “where a defendant was represented by new counsel on direct appeal ‘who was in no way enjoined from asserting the ineffectiveness of appellant’s trial counsel,’ claims of ineffective assistance *must be brought on direct review*.” (Emphasis in original.) *State v. Bradley*, 2008-Ohio-6071, ¶ 8 (3d Dist.), quoting *Cole* at 114. However, while ineffective assistance of trial counsel should ordinarily be raised on direct appeal, res judicata does not bar a defendant from raising an ineffective-assistance claim in a postconviction petition if the claim is based on evidence outside the record. *Bradley* at ¶ 7.

{¶20} With all of those legal standards in mind, we turn our attention to Jajuan’s claims of ineffective assistance of trial counsel in his postconviction petition.

{¶21} As a preliminary matter, the record reflects that Jajuan was represented by different counsel in his direct appeal than in the trial court. The record further reflects that Jajuan did not raise any claims of ineffective assistance of counsel in his direct appeal. Accordingly, as outlined above, his claims of ineffective assistance of trial counsel are barred by res judicata if they could have been raised in his direct appeal, unless the claims are based on evidence outside the record and

such evidence was not in existence or available for use at the time of trial or direct appeal, and is not merely cumulative of the evidence presented. *See Lewis*, 2019-Ohio-3031, at ¶ 14 (3d Dist.).

{¶22} The first claim raised in Jajuan’s petition was that his trial counsel was ineffective for not challenging the State’s evidence related to the charge of engaging in a pattern of corrupt activity. Specifically, Jajuan argued that there was “no evidence” that he and Jalen were “the ‘enterprise’ as the State alleged[.]” (Doc. No. 134). Jajuan asserted that the State relied on “illegally obtain[ed]” evidence of “recorded phone conversations” and “text messages” between himself and the CI and that his trial counsel was deficient for failing to file a motion to suppress. (*Id.*). The trial court reviewed this claim and determined that Jajuan “fail[ed] to identify anything outside the record as support for his argument.” (Doc. No. 140). The trial court further determined that Jajuan could have raised this argument in his direct appeal. Thus, the trial court concluded that Jajuan’s ineffective-assistance claim related to the charge of engaging in a pattern of corrupt activity was barred by the doctrine of res judicata.

{¶23} The second claim raised in Jajuan’s petition was that his trial counsel was ineffective for failing to object to the State’s motion for joinder and/or for failing to file a motion for severance to have his case tried separately from Jalen’s case. The trial court reviewed this claim and determined that Jajuan could have raised this argument in his direct appeal. Thus, the trial court concluded that

Jajuan's ineffective-assistance claim related to joinder was barred by the doctrine of res judicata.

{¶24} The third claim raised in Jajuan's petition was that his trial counsel was ineffective for failing to present an entrapment defense at trial. Jajuan asserted that "the evidence adduced at trial was in fact evidence that was illegally obtained by law enforcement." (Doc. No. 134). Jajuan further asserted that his trial counsel was deficient for failing to file a motion to suppress. The trial court reviewed this claim and determined that Jajuan "fail[ed] to identify anything outside the record in support of this assertion." (Doc. No. 140). Thus, the trial court concluded that Jajuan's ineffective-assistance claim related to the failure to present an entrapment defense at trial was barred by the doctrine of res judicata.

{¶25} The fourth and final claim raised in Jajuan's petition was that his trial counsel was ineffective for failing to file a motion to suppress. Jajuan reiterated his argument that the State relied on "illegally obtain[ed]" evidence of "recorded phone conversations" and "text messages" between himself and the CI and that his trial counsel was deficient for failing to file a motion to suppress such evidence. (Doc. No. 134). Jajuan referenced the attached search warrant and argued that the actions taken by law enforcement, as detailed by Lieutenant Wheeler in his affidavit, were without "search warrant[s] or probable cause affidavit[s]." (*Id.*). The trial court reviewed this claim and determined that Jajuan "identifie[d] nothing outside the record to support this argument." (Doc. No. 140). The trial court listed numerous

documents the State provided to trial counsel in response to Jajuan's demand for discovery. The trial court determined that "the record confirms that the State did provide [Jajuan's] trial counsel with the search warrant material [Jajuan] questions in his Petition." (*Id.*). The trial court further determined that Jajuan could have raised this argument in his direct appeal. Thus, the trial court concluded that Jajuan's ineffective-assistance claim related to the failure to file a motion to suppress was barred by the doctrine of res judicata.

{¶26} On appeal, Jajuan argues that the trial court abused its discretion by dismissing his petition because "[r]es judicata does not apply" to his claims of ineffective assistance of trial counsel. (Appellant's Brief at 4). Specifically, Jajuan argues that res judicata does not bar his ineffective-assistance claims since he presented "parts of the record, parts of discovery material that was not used at trial, and evidence that was seized as a direct result of fourth amendment violations which was never objected to at trial or challenged at a pre-trial motion to suppress." (*Id.*). We disagree.

{¶27} As previously stated, "where a defendant was represented by new counsel on direct appeal 'who was in no way enjoined from asserting the ineffectiveness of appellant's trial counsel,' claims of ineffective assistance *must be brought on direct review.*" (Emphasis in original.) *Bradley*, 2008-Ohio-6071, at ¶ 8 (3d Dist.), quoting *Cole*, 2 Ohio St.3d at 114. However, when a postconviction petition presents a claim of ineffective assistance of trial 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. *See Blanton*, 2022-Ohio-3985, at ¶ 41. *See also Cole* at 114 (“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.”).

{¶28} Here, Jajuan could have raised the ineffective-assistance claims in his direct appeal, but he failed to do so. Moreover, Jajuan failed to proffer evidence outside the record to establish his ineffective-assistance claims. Thus, the doctrine of res judicata precludes Jajuan from raising these claims in a petition for postconviction relief.

{¶29} Based on the foregoing, we conclude that the trial court did not abuse its discretion by dismissing Jajuan’s petition for postconviction relief on the basis of res judicata. Jajuan’s claims of ineffective assistance of trial counsel could have been raised in his direct appeal and are not based on evidence outside the record.

{¶30} Jajuan’s sole assignment of error is overruled.

{¶31} 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 assignment of error is 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