

**IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
STARK COUNTY, OHIO**

STATE OF OHIO

Plaintiff - Appellee

-vs-

MARQUIS L. BOLLAR

Defendant - Appellant

Case No. 2026CA00065

Opinion And Judgment Entry

Appeal from the Court of Common Pleas, Case
No. 2019-CR-1620

Judgment: Affirmed

Date of Judgment Entry: August 20, 2026

BEFORE: Andrew J. King; William B. Hoffman; Robert G. Montgomery, Judges

APPEARANCES: KYLE L. STONE, CHRISTOPHER A. PIEKARSKI, for Plaintiff-Appellee; MARQUIS L. BOLLAR, PRO-SE, for Defendant-Appellant.

King, P.J.

{¶ 1} Defendant-Appellant Marquis Bollar appeals the March 12, 2026 Judgment of the Stark County Court of Common Pleas which denied his Pro Se Motion to Vacate Sentence Imposed Contrary to Law. Plaintiff-Appellee is the State of Ohio.

Facts and Procedural History

{¶ 2} This matter comes before us for a second time. In *State v. Bollar*, 2021-Ohio-1578 (5th Dist.) we set forth the background of Bollar's case:

{¶ 3} On October 17, 2019, the Stark County Grand Jury returned a four-count indictment charging Bollar as follows:

{¶ 4} Count one — felony murder;

{¶ 5} Count two — involuntary manslaughter;

{¶ 6} Count three — felonious assault;

{¶ 7} Count four — having weapons under disability.

{¶ 8} Each count of the indictment contained a firearm specification.

{¶ 9} On March 6, 2020, the state dismissed count one of the indictment and Bollar entered pleas of guilty to counts two through four and the attendant gun specifications.

{¶ 10} During the sentencing hearing Bollar argued, and the state did not dispute that counts two and three, involuntary manslaughter and felonious assault merged for purposes of sentencing but having weapons under disability did not. Transcript of Plea and Sentencing (T.) 30, 32, 34.

{¶ 11} The state argued, however, R.C. 2929.14(B)(1)(g) required two of the three gun specifications to run consecutively to one another and consecutive to the underlying charge. T. 29-30. Counsel for Bollar disagreed, and advanced an allied offenses argument — that all three specifications were the result of one act by one person and therefore only one gun specification could be imposed. T. 35

{¶ 12} After taking a recess to consider matters presented during Bollar's plea as well as the application of R.C. 2929.14(B)(1)(g), the trial court sentenced Bollar to a minimum mandatory sentence of 11 years for involuntary manslaughter. The court additionally imposed three years for the attendant firearm specification and ordered Bollar to serve that sentence prior to any other sentence. T. 51.

{¶ 13} While the trial court imposed no sentence for the merged felonious assault, it found it was required to impose the attached gun specification and sentenced Bollar to three years on the specification. T. 51.

{¶ 14} For having weapons under disability, the trial court imposed a thirty-six-month sentence and merged the attendant firearm specification. After making the appropriate findings, the trial court ordered Bollar to serve this sentence consecutive to his sentence for involuntary manslaughter and the two gun specifications for an aggregate minimum term of 20 years to a maximum term of 25.5 years. T. 52-54.

{¶ 15} Bollar filed an appeal and argued the trial court erred when it sentenced him to three years for the firearm specification attendant to the charge of felonious assault after it had merged the charges of involuntary manslaughter and felonious assault as allied offenses. Bollar argued because the two charges merged, he could only be sentenced for one firearm specification and therefore his sentence is contrary to law. We rejected Bollar's argument and affirmed the trial court finding:

Bollar pled guilty to multiple felonies, to wit: involuntary manslaughter, felonious assault and having weapons while under a disability. The determination of guilt based upon his guilty pleas to each offense survived the trial courts merger of the felonious assault and involuntary manslaughter offenses. *State v. Whitfield*, 124 Ohio St.3d 319, 2010-Ohio-2, 922 N.E.2d 182. Therefore, the trial court was required by R.C. 2929.14(B)(1)(g) to sentence Bollar to the two most serious firearm specifications that accompanied his felony guilty pleas. R.C. 2929.14(B)(1)(g).

We therefore find that the trial court did not err in concluding that the firearm specifications accompanying the involuntary manslaughter and

felonious assault were not subject to merger pursuant to R.C. 2929.14(B).

The trial court did not err in ordering two of the three firearm specifications to run consecutively pursuant to R.C. 2929.14(B)(1)(g).

{¶ 16} *Id.* at ¶¶ 28-30.

{¶ 17} Bollar filed a motion to certify a conflict to the Supreme Court of Ohio on the question of "Whether Ohio's legislature has specifically authorized cumulative punishments for multiple firearm specifications that were committed as part of the same act or transaction under the narrowly tailored, specifically designated circumstances set forth in R.C. 2929.14(B)(1)(g), when the underlying felonies attendant to the firearm specifications are merged at sentencing as allied offenses of similar import pursuant to R.C. 2929.14(C)(4)." We certified the conflict, the Court determined a conflict existed and ordered briefing on the certified question. *State v. Bollar*, 2021-Ohio-2795. The Court also accepted jurisdiction over the sole proposition of law submitted in Bollar's discretionary appeal: "Trial courts cannot impose a prison sentence for a specification attached to an offense that merged under R.C. 2941.25 and did not result in a conviction." *Id.*

{¶ 18} On December 9, 2022, the Court answered the certified question in the affirmative, affirmed this court, and found "the plain language of R.C. 2929.14(B)(1)(g) requires that offenders like Bollar receive separate prison terms for convictions on multiple firearm specifications . . ." *State v. Bollar*, 2022-Ohio-4370, ¶ 26.

{¶ 19} On January 23, 2026, Bollar filed a motion in the trial court titled "Pro Se Motion to Vacate Sentence Imposed Contrary to Law." In his motion, Bollar raised the same

"unlawful firearm specification stacking" complaint he had raised before the Ohio Supreme Court and further argued that because the firearm specifications were illegally stacked, his minimum and maximum terms were miscalculated. The State filed a response arguing that Bollar's motion was an untimely motion for postconviction relief.

{¶ 20} On February 23, 2026, the trial court issued a nunc pro tunc judgment entry reiterating the calculation of Bollar's minimum and maximum terms but clarifying that the indefinite sentence for the underlying offenses was separate from the sentence for the firearm specifications which Bollar was required to serve prior to and consecutive to the indefinite sentence for the underlying offenses. On March 12, 2026, via judgment entry the trial court denied the balance of Bollar's argument.

{¶ 21} Bollar filed an appeal and the matter is now before this court for consideration. He raises two assignments of error as follows:

I

{¶ 22} "THE TRIAL COURT ERRED BY DENYING THE APPELLANT'S MOTION WITHOUT ADDRESSING THE MERITS."

II

{¶ 23} "IMPROPER USE OF NUNC PRO TUNC ENTRY."

I

{¶ 24} In his first assignment of error Bollar argues the trial court erred in denying his motion without addressing the merits. We disagree.

Law of the Case

{¶ 25} We begin by noting that Bollar's motion presented the same consecutive specification sentencing argument to the trial court that he had presented to the Supreme

Court of Ohio in 2022. Law of the case doctrine provides that a decision of a reviewing court in a case remains the law of the case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels. *U.S. Bank v. Detweiler*, 2012-Ohio-73, ¶ 26 (5th Dist.), citing *Nolan v. Nolan*, 11 Ohio St.3d 1 (1984).

{¶ 26} Because the Supreme Court of Ohio had already decided Bollar's challenge to his sentence for the firearm specifications, the trial court was without authority to revisit the matter and did not err in dismissing Bollar's motion without considering the merits of his claim.

Post-Conviction Relief Principles

{¶ 27} Next although application of law of the case doctrine, standing alone, would be sufficient grounds for the trial court to dismiss Bollar's motion, despite its caption, Bollar's Pro Se Motion to Vacate Sentence Imposed Contrary to Law" was a motion for postconviction relief. A motion filed subsequent to a defendant's direct appeal that claims a denial of constitutional rights, seeks to render the judgment void, and asks that the judgment be vacated is a motion for post-conviction relief. *State v. Reynolds*, 79 Ohio St.3d 158, 160 (1997).

{¶ 28} Although designed to address claimed constitutional violations, the postconviction relief process is a civil collateral attack on a criminal judgment, not an appeal of that judgment. *State v. Calhoun*, 86 Ohio St.3d 279, 281 (1999); *State v. Steffen*, 70 Ohio St.3d 399, 410 (1994). A petition for post-conviction relief does not provide a petitioner a second opportunity to litigate his conviction, nor is the petitioner automatically entitled to an evidentiary hearing on the petition. *State v. Lewis*, 2008-Ohio-3113, ¶ 8 (5th Dist.), citing *State v. Jackson*, 64 Ohio St.2d 107, 110 (1980).

{¶ 29} Pursuant to R.C. 2953.21(A)(2), a petition for postconviction relief must be filed no later than three hundred sixty-five days after the date on which the trial transcript is filed in the court of appeals in the direct appeal of the judgment of conviction or adjudication. If no appeal is taken, the petition must be filed no later than three hundred sixty-five days after the expiration of the time for filing the appeal.

{¶ 30} A trial court is without jurisdiction to hear an untimely petition for postconviction relief unless the petitioner meets exceptions contained in R.C. 2953.23(A). Specifically, the petitioner must demonstrate:

(a) either the petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief, or, subsequent to the period prescribed in division (A)(2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a new federal or state right that applies retroactively to persons in the petitioner's situation, and the petitioner asserts a claim based on that right.

(b) the petitioner shows by clear and convincing evidence that, but for the constitutional error at trial, no reasonable factfinder would have found the petitioner guilty of the offense of which the petitioner was convicted ...

{¶ 31} R.C. 2953.23(A)(1).

{¶ 32} Res judicata is also applicable to this matter. "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*, 10 Ohio St.2d 175 (1967), paragraph nine of the syllabus; *Grava v. Parkman Twp.*, 73 Ohio St.3d 379 (1995), syllabus.

Bollar's Petition

{¶ 33} In this matter, Bollar's petition for postconviction relief was grossly untimely and he failed to raise or argue that he met the requirements of R.C. 2953.23(A)(1). The trial court was therefore without jurisdiction to consider the petition. Additionally, as discussed above, Bollar challenged his sentence in his direct appeal. Bollar's sentencing challenge is therefore barred by res judicata.

{¶ 34} The first assignment of error is overruled.

II

{¶ 35} In his final assignment of error, Bollar argues the trial court improperly used a nunc pro tunc judgment entry because the nunc pro tunc entry is identical to the original judgment entry.

{¶ 36} Crim.R. 36 grants power to a court to issue a nunc pro tunc entry to correct "clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omission, may be corrected by the court at any time." A clerical mistake is a mistake or omission that does not involve a legal decision or judgment and is

apparent from the record. *State v. Miller*, 2010-Ohio-5705, ¶ 15, citing *State ex rel. Cruzado v. Zaleski*, 2006-Ohio-5795, ¶ 19.

{¶ 37} In its March 26, 2026 Judgment Entry the trial court's reasoning for issuing a nunc pro tunc entry is unclear. The court stated: "Upon review of the motion, the Court entered a nunc pro tunc judgment entry on February 23, 2026, to correct the calculation of the indefinite sentence that was imposed in this case to indicate that the indefinite sentence is separate from the calculation of the indefinite sentence." Judgment Entry, March 12, 2026, docket item 85.

{¶ 38} We have therefore examined the two judgment entries in question. It appears the trial court intended to indicate in its March 12, 2026 nunc pro tunc entry had corrected the calculation of the underlying indefinite sentence to indicate that sentence was separate from the calculation of the sentence for the gun specifications. (Compare Judgment Entry Change of Plea and Sentence Imposed, March 17, 2020 at page 3-4, docket item 63, and Change of Plea and Sentence Imposed Nunc Pro Tunc as of 3/17/2020, February 23, 2026, docket item 83.) The aggregate prison sentence, however, did not change.

{¶ 39} We have further examined the transcript of plea and sentencing and find the nunc pro tunc entry accurately reflects Bollar's sentence as imposed. Transcript at 52-53.

{¶ 40} While the nunc pro tunc in this instance appears to be a clarification rather than a correction, we find any error in its issuance harmless because as Bollar observes, nothing changed. He has therefore suffered no prejudice.

{¶ 41} The second assignment of error is overruled.

{¶ 42} The judgment of the Stark County Court of Common Pleas is affirmed. Costs to Appellant.

By: King, P. J.

Hoffman, J. and

Montgomery, J. concur.