[Cite as *State v. Cottrell*, 2026-Ohio-3418.]

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
MUSKINGUM COUNTY, OHIO

STATE OF OHIO Plaintiff - Appellee -vs- CHIRON COTTRELL Defendant - Appellant	Case No. CT2026-0056 Opinion And Judgment Entry Appeal from the Court of Common Pleas, Case No. CR2021-0431 Judgment: Affirmed Date of Judgment Entry: September 1, 2026

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

APPEARANCES: JOSEPH A. PALMER, for Plaintiff-Appellee; CHIRON COTTRELL, PRO SE, for Defendant-Appellant.

King, P.J.

{¶ 1} Defendant-Appellant, Chiron Cottrell, appeals the May 13, 2026 journal entry of the Muskingum County Common Pleas Court denying his motion to dismiss felony charge for delay in trial. Plaintiff-Appellee is the State of Ohio. We affirm the trial court.

FACTS AND PROCEDURAL HISTORY

{¶ 2} On August 19, 2021, the Muskingum County Grand Jury filed a twenty-count indictment against Cottrell alleging his involvement in a sophisticated drug trafficking network using the U.S. Mail for the interstate sale of drugs. On March 21, 2022, Cottrell pled guilty to one count of engaging in a pattern of corrupt activity (F1) in violation of R.C. 2923.32 and one count of trafficking in drugs (Methamphetamine) (F2) in violation of R.C. 2925.03. Both counts included forfeiture specifications. By entry filed June 6, 2022, the trial

court sentenced Cottrell to ten years on the F1 count and two years mandatory on the F2 count, to be served concurrently, and ordered the forfeiture of money and a vehicle.

{¶ 3} Cottrell appealed, challenging his sentence; this court affirmed, finding his sentence was neither excessive nor shocking, and was not clearly and convincingly contrary to law (Case No. CT2022-0061). *State v. Cottrell,* 2023-Ohio-1391 (5th Dist.), *appeal not accepted,* 2024-Ohio-1228 ("*Cottrell I*").

{¶ 4} On June 28, 2023, Cottrell filed with this court an application for reopening, arguing: 1) ineffective assistance of trial counsel; 2) breach of plea deal; 3) abuse of discretion regarding sentence; 4) prosecutorial misconduct; 5) Brady violation; and 6) speedy trial rights violation. By judgment entry filed September 18, 2023, this court denied the application, finding Cottrell did not put forth a colorable claim of ineffective assistance of appellate counsel as he did not present any parts of the record or affidavits in support of his arguments. Further, he signed a time waiver negating the speedy trial rights violation claim and presented nothing to indicate his signature was forged.

{¶ 5} On September 28, 2023, Cottrell filed a motion for reconsideration of this court's September 18, 2023 decision. By judgment entry filed December 7, 2023, this court denied the motion, finding Cottrell's arguments were merely a rehashing of the same arguments from his application to reopen that were already considered and rejected.

{¶ 6} On January 3, 2024, Cottrell filed with the trial court a petition for postconviction relief arguing violations of his Fifth, Sixth, and Fourteenth Amendment rights. Cottrell argued: 1) he was indicted on charges he had nothing to do with or had knowledge of; 2) false and fabricated evidence was presented to the grand jury; 3) ineffective assistance of counsel for failing to file a motion to dismiss for speedy trial rights violation; and 4)

ineffective assistance of appellate counsel for not arguing the speedy trial rights violation. By entry filed March 1, 2024, the trial court denied the petition, finding Cottrell pled guilty and therefore waived any argument about speedy trial rights, and his petition lacked any affidavits to establish ineffective assistance of counsel or fabricated evidence. Cottrell filed an appeal; by judgment entry filed May 3, 2024, the appeal was dismissed for want of prosecution (Case No. CT2024-0029).

{¶ 7} On May 20, 2024, Cottrell filed another petition for postconviction relief arguing: 1) ineffective assistance of appellate counsel; 2) ineffective assistance of trial counsel; 3) breach of contract/plea deal; 4) abuse of discretion regarding sentence; 5) prosecutorial misconduct/falsification of evidence/conspiracy to deprive rights; 6) Brady violation; 7) speedy trial rights violation; 8) actual innocence; and 9) plain error. By entry filed July 8, 2024, the trial court denied the petition, again finding Cottrell pled guilty and therefore waived any argument about speedy trial rights, and his petition lacked any affidavits to establish ineffective assistance of counsel or fabricated evidence. Cottrell filed an appeal, assigning eighteen assignments of error; this court affirmed the trial court's decision, finding the trial court was without jurisdiction to consider Cottrell's successive petition pursuant to R.C. 2953.23(A)(1)(b), and the petition did not point to new facts or a new federal or state right upon which to allow Cottrell to succeed on a successive petition for postconviction relief. (Case No. CT2024-0089). *State v. Cottrell,* 2024-Ohio-6101 (5th Dist.), *appeal not accepted,* 2025-Ohio-1483 ("*Cottrell II*").

{¶ 8} On February 3, 2025, Cottrell filed with this court a delayed application for reopening the *Cottrell I* appeal. By judgment entry filed February 10, 2025, this court denied the delayed application, finding Cottrell's arguments covered the same issues that had already

been reviewed and denied, and he failed to assert any new facts or rights that had not already been reviewed.

{¶ 9} On April 28, 2025, Cottrell filed with the trial court motions for leave to withdraw guilty plea and for new trial. By journal entries filed September 24, 2025, the trial court denied the motions. Cottrell did not file an appeal on these decisions.

{¶ 10} On January 29, 2025, Cottrell filed an appeal on a September 18, 2023 judgment entry; he did not attach the judgment entry to his docketing statement. The only decision with that date is this court's denial of his application to reopen his *Cottrell I* appeal. By judgment entry filed April 14, 2025, the appeal was dismissed for want of prosecution (Case No. CT2025-0008).

{¶ 11} On April 27, 2026, Cottrell filed with the trial court a motion to dismiss felony charge for delay in trial. By journal entry filed May 13, 2026, the trial court denied the motion, finding Cottrell had filed a time waiver to his speedy trial time, had filed an appeal, had previously filed petitions for postconviction relief, and had already raised the issue. Cottrell filed a motion for reconsideration; by journal entry filed May 29, 2026, the trial court denied the motion.

{¶ 12} Cottrell filed an appeal of the trial court's May 13, 2026 journal entry with the following assignments of error:

I

{¶ 13} "APPELLANT WAS DENIED HIS CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL."

II

{¶ 14} "SPEEDY TRIAL VIOLATION."

III

{¶ 15} "INVALID TIME WAIVER."

IV

{¶ 16} "DUE PROCESS VIOLATION."

V

{¶ 17} "UNIFORM CRIMINAL EXTRADITION ACT VIOLATION."

VI

{¶ 18} "INVALID GUILTY PLEA."

VII

{¶ 19} "FOURTH AMENDMENT VIOLATION."

I, II, III, IV, V, VI, VII

{¶ 20} In his assignments of error, Cottrell claims the trial court erred in denying his petition for postconviction relief. We disagree.

{¶ 21} A trial court's decision to grant or deny a petition for postconviction relief lies in the trial court's sound discretion and an appellate court will not disturb such a decision in the absence of an abuse of discretion. *State v. Sanders,* 2005-Ohio-4267, ¶ 8 (9th Dist.), citing *State v. Elkins,* 2003-Ohio-4522, ¶ 5 (9th Dist.). "Abuse of discretion" means an attitude that is unreasonable, arbitrary or unconscionable. *Huffman v. Hair Surgeon, Inc.,* 19 Ohio St.3d 83, 87 (1985). Most instances of abuse of discretion will result in decisions that are simply unreasonable, rather than decisions that are unconscionable or arbitrary. *AAAA Enterprises, Inc. v. River Place Community Urban Redevelopment Corp.,* 50 Ohio St.3d 157, 161 (1990). An unreasonable decision is one backed by no sound reasoning process which would support that decision. *Id.* "It is not enough that the reviewing court, were it deciding the issue *de novo,*

would not have found that reasoning process to be persuasive, perhaps in view of countervailing reasoning processes that would support a contrary result." *Id.*

{¶ 22} In *Cottrell II,* this court held the trial court was without jurisdiction to consider Cottrell's successive petition for postconviction relief under R.C. 2953.23(A)(1) which states:

> (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court may not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or *a second petition or successive petitions for similar relief* on behalf of a petitioner unless division (A)(1) or (2) of this section applies:
>
> (1) Both of the following apply:
>
> (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 petition asserts a claim based on that right.
>
> (b) The petitioner shows by clear and convincing evidence that, but for constitutional error at trial, no reasonable factfinder would have found the petitioner guilty of the offense of which the petitioner was convicted . . . . (Emphasis added.)

{¶ 23} *Cottrell II* held at ¶ 36-37:

> As the trial court noted in overruling both of appellant's petitions for post-conviction relief, his convictions arose from guilty pleas. Regarding his successive petition for PCR, the trial court was without jurisdiction to consider appellant's petition pursuant to R.C. 2953.23(A)(1)(b).
>
> Moreover, a review of appellant's summary arguments on appeal supports the trial court's determination that appellant does not point the court to new facts or a new federal or state right upon which to allow appellant to succeed on a successive petition for post-conviction relief. *State v. Johnson,* 2016-Ohio-1213, ¶ 24 (5th Dist.).

{¶ 24} We adopt the reasoning of *Cottrell II* and incorporate the cited language into this opinion. Once again, Cottrell pled guilty and the trial court was without jurisdiction to consider his successive petition for postconviction relief under R.C. 2953.23(A)(1)(b). Further, Cottrell failed to point to new facts or a new federal or state right that has not been argued or reviewed before; he is merely rehashing his same arguments. A petitioner's failure to satisfy the R.C. 2953.23(A) requirements deprives a trial court of jurisdiction to adjudicate the merits of a successive petition for postconviction relief. *State v. Apanovitch,* 2018-Ohio-4744, ¶ 36; *State v. Lewis,* 2024-Ohio-5271, ¶ 20 (5th Dist.).

{¶ 25} Upon review, we find the trial court did not abuse its discretion in denying Cottrell's motion to dismiss felony charge for delay in trial/successive petition for postconviction relief.

{¶ 26} Assignments of Error I, II, III, IV, V, VI, and VII are denied.

{¶ 27} For the reasons stated in our accompanying Opinion, the judgment of the Muskingum County Court of Common Pleas is AFFIRMED.

{¶ 28} Costs to Appellant.

By: King, P.J.

Hoffman, J. and

Montgomery, J. concur.