

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

STATE OF OHIO

Plaintiff - Appellee

-vs-

MAJOR ESSEX MENIFIELD

Defendant - Appellant

Case No. 2025CA00137

Opinion and Judgment Entry

Appeal from the Stark County Court of
Common Pleas, Case No. 2022CR2397

Judgment: Affirmed

Date of Judgment Entry: October 20, 2026

BEFORE: William B. Hoffman; Craig R. Baldwin; Robert G. Montgomery, Judges

APPEARANCES: Kyle L. Stone, Prosecuting Attorney, Stark County, Ohio, Vicki L. DeSantis, Assistant Prosecuting Attorney, for Plaintiff-Appellee; Major Essex Menifield, Pro se.

Hoffman, P.J.

{¶1} Defendant-appellant Major Essix Menifield appeals the September 17, 2025 judgment entered by the Stark County Common Pleas Court denying his September 20, 2024 petition for post-conviction relief. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE AND FACTS

{¶2} On December 16, 2022, Appellant Major Essix Menifield was indicted by the Stark County Grand Jury on two counts of domestic violence, one count of intimidation of a witness, and one count of felonious assault. The domestic violence charges were classified as

felonies of the third-degree based on two prior convictions: one of domestic violence, and one of aggravated trespass in which the victim was a family or household member.

{¶3} The victim in this case was Appellant's girlfriend of approximately three years. On August 12, 2022, the victim called 9-1-1 and reported she and Appellant had an altercation over a text message, during which Appellant grabbed her face, broke her glasses, poked at her face, and threatened to kill her or her daughter.

{¶4} On December 3, 2022, the victim went to Wal-Mart while Appellant was asleep on her couch. When she returned to the apartment, an argument ensued and Appellant hit her in the mouth. (See *State v. Major Essix Menifield*, 2024-Ohio-2981, ¶ 2 (5th Dist.)).

{¶5} The case proceeded to jury trial in the Stark County Common Pleas Court. The State dismissed the charge of intimidation of a witness. The jury found Appellant guilty on the December 3, 2022 domestic violence count, including two prior conviction specifications, and guilty of felonious assault as to the December 3, 2022 incident. The jury found Appellant not guilty on the August 12, 2022, domestic violence charge.

{¶6} The trial court convicted Appellant in accordance with the jury's verdict, and found the convictions merged for sentencing. The trial court sentenced Appellant on the felonious assault conviction to a term of incarceration of six to nine years. (See September 21, 2023 Judgment of Conviction and Sentence).

{¶7} Appellant filed a direct appeal of his conviction and sentence, which this Court upheld by Opinion and Judgment Entry filed August 5, 2024, in *State v. Major Essix Menifield*, 2024-Ohio-2981 (5th Dist.).

{¶8} On September 20, 2024, Appellant filed a petition for post-conviction relief. In his petition Appellant claimed his trial counsel was ineffective: (1) in failing to call or

subpoena an alibi witness, and (2) in failing to investigate the nurse who treated the victim and testified at trial, claiming she was related to the victim.

{¶9} On September 27, 2024, the State of Ohio filed a response to Appellant's petition for post-conviction relief.

{¶10} On October 8, 2024, Appellant filed an application to re-open his direct appeal pursuant to App.R. 26(B). In his application, Appellant argued: (1) appellate counsel was ineffective for failing to raise the issue the trial court failed to provide him with the notifications required by statute for imposing a non-definite felony sentence pursuant to the Reagan Tokes law; and (2) his trial counsel was ineffective by failing to subpoena an alibi witness to testify on behalf of Appellant at trial.

{¶11} On October 9, 2024, Appellant filed "Petitioner/Defendant's Objection to the State's Response to Petition for Post Conviction Relief."

{¶12} On November 15, 2024, Appellant filed a Notice of Appeal with the Supreme Court of Ohio, which declined jurisdiction. See 05/13/2025 *Case Announcements* 2025-Ohio-1682.

{¶13} On November 20, 2024, this Court granted Appellant's application for reopening only as to the issue of failure to provide Appellant with mandatory sentencing notifications under the Reagan Tokes law, vacated its August 5, 2024 judgment entry and remanded the matter for resentencing. As to the alibi issue, this Court found:

The record before this Court on appeal does not establish the existence of an alibi witness, nor does the record establish what a potential alibi witness would have testified to if subpoenaed by counsel. As such, Appellant has not

demonstrated from the record trial counsel was ineffective in failing to call an alibi witness, and Appellant has not demonstrated appellate counsel was ineffective for failing to raise this assignment of error on appeal.

{¶14} (November 20, 2024 Judgment Entry at 5) .

{¶15} On December 16, 2024, the trial court re-sentenced Appellant in accordance with the Reagan Tokes law.

{¶16} On January 13, 2025, following resentencing, Appellant filed a second notice of appeal (2025 CA 00005). That appeal was initially dismissed on March 14, 2025, for failure by Appellant to file a Docketing Statement along with an attached time-stamped copy of the judgment entry being appealed.

{¶17} On March 28, 2025, Appellant filed an application for reconsideration,

{¶18} On April 30, 2025, this court granted Appellant's application for reconsideration after it was discovered Appellant was only orally sentenced in December and the trial court did not issue a sentencing entry until after Appellant's Notice of Appeal was filed. We found the appeal was a premature notice of appeal. See App.R. 4(C)

{¶19} The appeal was ultimately dismissed by this Court on July 18, 2025, for failure by Appellant to file a brief.

{¶20} On September 10, 2025, Appellant filed a motion for judgment on outstanding pleadings with the trial court.

{¶21} By Judgment Entry filed September 17, 2025, the trial court denied Appellant's petition for post-conviction relief.

{¶22} Appellant now appeals the September 17, 2025 judgment entry, assigning the following error for review:

ASSIGNMENT OF ERROR

I. THE TRIAL COURT ERRED IN DENYING THE POST-CONVICTION PETITION WITHOUT FINDINGS OF FACT AND CONCLUSIONS OF LAW.

I.

Post-Conviction Relief

{¶23} Pursuant to R.C. §2953.21(A)(1)(a), a convicted defendant who asserts a denial or infringement of constitutional rights sufficient to render his conviction void or voidable may file a petition asking the court that imposed sentence to vacate the judgment or sentence or to grant other relief.

{¶24} A petition for post-conviction relief is intended as a means to reach constitutional issues which would otherwise be impossible to reach because the evidence supporting those issues is not contained in the record of the petitioner's criminal conviction. *State v. Smith*, 2017-Ohio-2616, ¶ 13. A petition for post-conviction relief is a civil collateral attack on a criminal judgment, not an appeal of that judgment. *State v. Calhoun*, 1999-Ohio-102. A petition for post-conviction relief does not, therefore, provide a petitioner with a second opportunity to litigate his conviction, nor is the petitioner automatically entitled to an evidentiary hearing on the petition. *State v. Jackson*, 64 Ohio St.2d 107, 110 (1980), *State v. Lewis*, 2008-Ohio-3113, ¶ 8 (5th Dist.).

{¶25} A trial court's decision to grant or deny a post-conviction petition filed pursuant to R.C. §2953.21 should be upheld absent an abuse of discretion. *State v. Gondor*, 2006-Ohio-6679, ¶ 58; *State v. Morris*, 2026-Ohio-2576, ¶ 40 (5th Dist.). "But whether a trial court has subject-matter jurisdiction to entertain an untimely, second, or successive petition for postconviction relief is a question of law, which we review de novo." *Id.*, citing *State v. Apanovitch*, 2018-Ohio-4744, ¶ 24.

{¶26} R.C. §2953.21(A)(2)(a) requires a petition for post-conviction relief "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." *State v. Nelson*, 2024-Ohio-1792, ¶ 8 (5th Dist.).

{¶27} Pursuant to R.C. §2953.21, when a trial court denies a petition for post-conviction relief without a hearing, the trial court shall make and file findings of fact and conclusions of law. The findings of fact and conclusions of law should be explicit enough to give the appellate court a clear understanding of the basis of the trial court's decision and to enable it to determine the grounds on which the trial court reached its decision. *State v. Jacks*, 5th Dist. Licking No. 99 CA 113, (Feb. 29, 2000), citing *State v. Lester*, 41 Ohio St.2d 51, 322 N.E.2d 656 (1975). The purpose of requiring the trial court to include findings of fact and conclusions of law in its judgment entry is to sufficiently apprise both the petitioner and the potential appellate court of the grounds for its decision. *State v. Staats*, 2016-Ohio-2921 (5th Dist.).

{¶28} However, the Supreme Court has held a trial court "need not issue findings of fact and conclusions of law when it dismisses an untimely [post-conviction-relief] petition." *State ex rel. Kimbrough v. Greene*, 2002-Ohio-7042. If a petition for post-conviction relief is

untimely, the trial court had no clear duty to issue findings of fact or conclusions of law. *Dillon v. Cottrill*, 2015-Ohio-1785 (5th Dist.). Further, a trial court "has no duty to issue findings of fact and conclusions of law on successive or untimely petitions for post-conviction relief." *State ex rel. George v. Burnside*, 2008-Ohio-2702.

{¶29} Upon review of the docket, the trial transcript in Appellant's direct appeal was filed on January 8, 2024. The deadline for filing a petition for post-conviction relief was therefore January 8, 2025. Appellant filed his petition in this case on September 20, 2024. The trial court never ruled on the petition. Appellant then filed a motion on September 17, 2025, requesting the trial court rule on his outstanding motions. While the State characterizes this most recent motion as an untimely second, successive petition for post-conviction relief, we do not. (Appellee's brief at 2, 4). We likewise find no support for the State's assertion the trial court treated the motion as a second petition for post-conviction relief. (Appellee's brief at 2).

{¶30} R.C. §2953.21(H) provides in pertinent part:

(H) 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. If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the denial of relief on the petition and of each claim it contains....

{¶31} *State v. Forrester*, 2024-Ohio-5724, ¶ 33 (5th Dist.).

{¶32} Upon review, we note Appellant’s petition was not supported by any affidavits in support from himself, trial counsel or a potential alibi witness.

{¶33} In its judgment entry, the trial court found:

... Petitioner’s Motion fails to set forth sufficient operative facts, fails to substantiate any grounds for relief for violations of constitutional rights, and attempts to revisit issues barred by res judicata.

Accordingly, Defendant-Petitioner’s motion for Post-conviction Relief is DENIED.

{¶34} (September 17, 2025 Judgment Entry).

{¶35} While the trial court did not use specific headings entitled "findings of fact" and "conclusions of law," its Judgment Entry did in fact contain the requisite information and analysis. Moreover, the trial court was not required to separately state with specificity the reasons for its denial as to each and every one of the claims contained in the appellant's Petition; such specificity is only required in cases where the petitioner has been sentenced to death, and the appellant herein was not. *State v. Forrester*, 2024-Ohio-5724, ¶ 34 (5th Dist.).

{¶36} Based on the failure of Appellant to provide any supporting documentation for his petition, we find the trial court’s determination Appellant’s petition “fails to set forth sufficient operative facts and failed to substantiate any grounds for relief for violations of constitutional rights” satisfied the obligation to provide petitioner and this Court with the grounds for its decision.

{¶37} Appellant also claims he was entitled to counsel. In *State v. Crowder* (1991), 60 Ohio St.3d 151, 152, the Ohio Supreme Court held a post-conviction petitioner has no constitutional right to counsel.

{¶38} Based on the foregoing, Appellant's assignment of error is overruled.

{¶39} The judgment of the Stark County Court of Common Pleas is affirmed.

{¶40} Costs to Appellant.

By: Hoffman, P.J.

Baldwin, J. and

Montgomery, J. concur.