

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	
	:	No. 115478
v.	:	
	:	
LORINZO SAMPSON,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: APPLICATION DENIED
RELEASED AND JOURNALIZED: August 14, 2026

Cuyahoga County Court of Common Pleas
Case Nos. CR-24-694656-A and CR-25-698527-A
Application for Reopening
Motion No. 596575

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Michael Timms, Assistant Prosecuting Attorney, *for appellee*.

Lorinzo Sampson, *pro se*.

MARY J. BOYLE, J.:

{¶ 1} Lorinzo Sampson (“Sampson”), *pro se*, has filed an application for reopening pursuant to App.R. 26(B) and *State v. Murnahan*, 63 Ohio St.3d 60

(1991), based on claims of ineffective assistance of appellate counsel. Sampson is attempting to reopen this court's judgment in *State v. Sampson*, 2026-Ohio-1381 (8th Dist.), in which this court affirmed the trial court's imposition of consecutive sentences. For the reasons that follow, we deny Sampson's application to reopen the appeal.

I. Procedural and Factual History

{¶ 2} In August 2024, Sampson was named in a two-count indictment in Cuyahoga C.P. No. CR-24-694656-A, charging him with having weapons while under disability and tampering with evidence. At the time of the indictment, Sampson was serving a term of community-control sanctions following his convictions in two prior cases.

{¶ 3} In January 2025, Sampson was named in a four-count indictment in Cuyahoga C.P. No. CR-25-698527-A, charging him with felonious assault, domestic violence, and two counts of having weapons while under disability.

{¶ 4} In February 2025, Sampson accepted the terms of a negotiated plea agreement in Case No. CR-24-694656-A and pleaded guilty to a single count of attempted having weapons while under disability, with a forfeiture specification, as amended in Count 1 of the indictment. The remaining count was nolle.

{¶ 5} In July 2025, Sampson accepted the terms of a negotiated plea agreement in Case No. CR-25-698527-A and pleaded guilty to a single count of attempted having weapons while under disability as amended in Count 2 of the indictment. The remaining counts were nolle.

{¶ 6} At the conclusion of a joint sentencing hearing, Sampson was sentenced to an 18-month term of imprisonment in Case No. CR-24-694656-A and an 18-month term of imprisonment in Case No. CR-25-698527-A. The sentences were ordered to be served consecutively for an aggregate prison term of 36 months. At the conclusion of the sentencing hearing, the trial court expressed that it would modify the individual prison terms imposed in each case to a period of 16 months if it could confirm that Sampson successfully completed rehabilitative programming during his time in county jail.

{¶ 7} In August 2025, Sampson filed a direct appeal from his convictions and sentence in Case Nos. CR-24-694656-A and CR-25-698527-A. Therein, Sampson raised three assignments of error, arguing (1) the trial court was neither neutral nor impartial, (2) the trial court’s sentence was contrary to law, and (3) the trial court violated his Sixth Amendment rights to effective assistance of counsel when it failed to permit him to hire counsel of his choosing. Upon review, this court found no merit to Sampson’s claims and affirmed the trial court’s judgment. *State v. Sampson*, 2026-Ohio-1381 (8th Dist.).

{¶ 8} On June 23, 2026, Sampson filed a timely application to reopen his appeal, asserting that “appellate counsel’s inadequate performance compromised [his] right to a direct appeal.” Specifically, Sampson argues that appellate counsel rendered ineffective assistance of counsel by failing to raise the following proposed assignments of error:

1. Trial court committed reversible error when it asserted it would inquire into whether appellant successfully fulfilled program obligations in order to consider modifying appellant's sentence. However, the trial court made no inquiry, and lied to defendant about its authority to make a modification to his sentence.

2. Trial court abused its discretion when it failed to assign appellant's case to the mental health and developmental disabilities docket in violation of his due process rights of the 14th Amendment of the U.S. Const.

{¶ 9} On July 17, 2026, the State filed a brief in opposition to the application for reopening, arguing that Sampson “has shown no genuine issue of appellate counsel being ineffective.”

II. Law and Analysis

A. Standard of Review

{¶ 10} Under App.R. 26(B), a defendant in a criminal case may apply to reopen his or her direct appeal of the judgment of conviction and sentence based on a claim of ineffective assistance of appellate counsel. The application must be filed within 90 days from journalization of the appellate judgment unless the applicant shows good cause for filing at a later time. App.R. 26(B)(1).

{¶ 11} App.R. 26(B) establishes a two-stage procedure for adjudicating claims of ineffective assistance of appellate counsel. *State v. Leyh*, 2022-Ohio-292, ¶ 19. An applicant must first make a threshold showing that appellate counsel was ineffective. *Id.* at ¶ 19, 35. At this stage, an applicant is “not required to conclusively establish ineffective assistance of appellate counsel[.]” *Id.* at ¶ 35. Rather, “[t]he burden is on the applicant to demonstrate a ‘genuine issue’ as to whether there is a

‘colorable claim’ of ineffective assistance of appellate counsel.” *Id.* at ¶ 21, quoting *State v. Spivey*, 84 Ohio St.3d 24, 25 (1998).

{¶ 12} If the applicant makes the required threshold showing, demonstrating that “there is at least a genuine issue — that is, legitimate grounds —to support the claim that the applicant was deprived of the effective assistance of counsel on appeal,” then the application shall be granted and the appeal reopened. *Id.* at ¶ 25, citing App.R. 26(B)(5). The matter then

“proceeds to the second stage of the procedure, which ‘involves filing appellate briefs and supporting materials with the assistance of new counsel, in order to establish that prejudicial errors were made in the trial court and that ineffective assistance of appellate counsel in the prior appellate proceedings prevented these errors from being presented effectively to the court of appeals.’”

Id. at ¶ 22, quoting 1993 Staff Notes to App.R. 26(B).

{¶ 13} Claims of ineffective assistance of appellate counsel under App.R. 26(B) are subject to the two-pronged analysis enunciated in *Strickland v. Washington*, 466 U.S. 668 (1984). *See State v. Simpson*, 2020-Ohio-6719, ¶ 14; *Leyh* at ¶ 23 (O’Connor, C.J., concurring). In accordance with the *Strickland* analysis, an applicant must show that (1) appellate counsel’s performance was objectively unreasonable, and (2) there is “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Smith v. Robbins*, 528 U.S. 259, 285-286 (2000). “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland* at 694.

{¶ 14} In considering Sampson’s application, we are mindful that appellate counsel is afforded deference in determining which issues to argue on appeal. *State v. Burke*, 2002-Ohio-5310, ¶ 7. As this court has previously explained:

With respect to claims of ineffective assistance of appellate counsel, the United States Supreme Court has upheld the appellate advocate’s prerogative to decide strategy and tactics by selecting the most promising arguments and focusing on one central issue or, at most, a few key issues. *State v. Barrow*, 2015-Ohio-4579, ¶ 7 (8th Dist.), citing *Jones v. Barnes*, 463 U.S. 745, 751-52 (1983). *See also State v. Ware*, 2014-Ohio-815, ¶ 5 (8th Dist.) (“Appellate counsel cannot be considered ineffective for failing to raise every conceivable assignment of error on appeal.”).

State v. Doumbas, 2016-Ohio-956, ¶ 6 (8th Dist.).

B. Modification of Sentence

{¶ 15} In the first proposed assignments of error, Sampson argues appellate counsel was ineffective for failing to advance an assignment of error challenging the trial court’s failure to fulfill its promise to modify his sentence if it received confirmation that Sampson completed rehabilitative courses while in county jail. Sampson suggests that the trial court’s promise induced his decision to plead guilty and, therefore, the court’s failure to modify his sentence rendered his plea involuntarily made. Sampson further contends that appellate counsel was ineffective for failing to investigate “[his] program records at the Cuyahoga County jail.”

{¶ 16} In this case, the record reflects that at the time of sentencing, Sampson attempted to introduce various certificates that allegedly evidenced his completion of rehabilitative courses during his time in county jail. As stated in *Sampson*, the

certificates were introduced by defense counsel in an effort to secure a sentence of probation. Upon examination, the trial court questioned the authenticity of the certificates based on their appearance and the number of classes allegedly completed during the limited time Sampson was in custody. In each sentencing journal entry, however, the trial court advised Sampson that it would modify the length of each individual prison term to 16 months if the court “received confirmation from the jail that defendant completed the courses presented at the time of sentencing.”

{¶ 17} In October 2025, while his direct appeal was pending, Sampson filed a motion for sentence reduction or modification, “asserting that he has completed the necessary classes” and wished to be afforded the sentencing modification as journalized. The motion was not supported by any evidentiary materials. Ultimately, the trial court denied Sampson’s request to modify his sentence, stating that it “was unable to determine whether defendant completed the programming.” Despite the trial court’s conclusion, however, Sampson reiterates in his motion to reopen that he successfully completed four programs leading up to his sentencing hearing. He attempts to support his position with a confirmation letter from a representative of MetroHealth Hospital, dated May 14, 2026, and his own affidavit of verity, dated June 11, 2026.

{¶ 18} To the extent Sampson disparages appellate counsel’s failure to challenge the trial court’s denial of his motion to modify his sentence, we note that the judgments, motions, and exhibits referenced in this proposed assignment of

error relate to events that occurred after a final order was journalized on July 30, 2025, and Sampson's notice of appeal was filed. *See State v. Carlisle*, 2011-Ohio-6553, ¶ 11 ("A criminal sentence is final upon issuance of a final order.").

{¶ 19} Pursuant to App.R. 9, the record on appeal is limited. It consists of "[t]he original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court" App.R. 9(A). Our job is to determine the appeal on its merits based on the "record on appeal under App.R. 9," which was submitted by the clerk of the trial court on September 26, 2025, in this case. App.R. 12(A)(1)(b). Clearly, appellate counsel cannot be ineffective for failing to raise an assignment of error relating to motions or judgments that were unresolved and not part of our record on appeal.

{¶ 20} Likewise, Sampson's suggestion that appellate counsel had a duty to investigate, or otherwise verify, the authenticity of the jail programming certificates introduced at sentencing is misplaced. It is well settled that "[a]n allegation that appellate counsel provided ineffective representation must be supported by something in the record on appeal." *State v. Vicario*, 2019-Ohio-784, ¶ 9 (8th Dist.), citing *State v. Burke*, 2002-Ohio-5310, ¶ 10-11. "[T]he effectiveness of appellate counsel [cannot] be judged by adding new matter to the record and then arguing that counsel should have raised these new issues revealed by this newly added material." *Burke* at ¶ 11, quoting *State v. Moore*, 93 Ohio St.3d 649, 650 (2001). Applying the foregoing principles, we find appellate counsel cannot be ineffective

for failing to investigate and obtain new evidence outside the record to corroborate Sampson's claim that he completed rehabilitative programs while in county jail. In fact, appellate counsel would have been prohibited from relying on such evidence in the direct appeal had corroborating information dehors the record been discovered after the final sentencing order was issued. *See State v. Lenard*, 2018-Ohio-4847, ¶ 12 (8th Dist.) ("Allegations of ineffectiveness based on facts not appearing in the trial record must be reviewed through post-conviction remedies and cannot be raised through an App.R. 26(B) application for reopening.").

{¶ 21} Finally, we find no merit to Sampson's contention that the trial court's discussion of a possible sentence modification impaired the voluntary nature of his plea. As mentioned, the certificates in question were introduced by defense counsel for the first time at the July 2025 sentencing hearing. During the plea proceedings, the trial court outlined the penalties Sampson faced for each offense and declined to promise Sampson a specific sentence. (Tr. 46, 72-74.)

{¶ 22} To be clear, this court questions the trial court's general assertion that it had the authority to modify Sampson's sentence at some time in the future. *See State v. Carlisle*, 2011-Ohio-6553, ¶ 1 ("Absent statutory authority, a trial court is generally not empowered to modify a criminal sentence by reconsidering its own final judgment."). Regardless, we find the trial court's brief discussion of a potential two-month reduction in the individual sentences cannot be said to have influenced Sampon's prior decision to accept the terms of the negotiated plea agreement. As mentioned, nowhere in the record did the trial court promise a particular sentence

in exchange for a guilty plea. Nor has Sampson directed this court to any case law to suggest that the court's discussion of a future modification impaired the validity or finality of the individual 18-month prison terms. Under these circumstances, appellate counsel was not ineffective for failing to challenge the knowing and voluntary nature of Sampson's acceptance of guilt in Case Nos. CR-24-694656-A and CR-25-698527-A.

{¶ 23} Based on the foregoing, we find Sampson has not shown a genuine issue of a colorable claim of ineffective assistance of appellate counsel. Accordingly, the first proposed assignment of error does not provide legitimate grounds for reopening Sampson's appeal.

B. Due Process Violation

{¶ 24} In the second proposed assignment of error, Sampson argues appellate counsel was ineffective for failing to advance an assignment of error challenging the trial court's failure to assign his case to the mental health and developmental disabilities docket (the "MMDD docket"). Sampson contends that the trial court's actions violated his right to due process under the Fourteenth Amendment.

{¶ 25} Cuyahoga C.P., Gen.Div., Loc.R. 30.1 governs eligibility for the common pleas court's MMDD docket, and states, in relevant part:

(C) Defendants with a confirmed severe mental illness with a psychotic feature or developmental disabilities, as determined by the Court's guidelines set forth in the Appendage A hereto are to be assigned to an MHDD docket.

...

(D)(2)(a) In cases where it is determined after assignment to a non-MHDD judge and prior to the plea that the defendant qualifies for the MHDD docket, the assigned judge *may* apply to the Administrative Judge for transfer of the case to the MHDD docket.

(Emphasis added.)

{¶ 26} This court has explained that Loc.R. 30.1, “[t]hrough the use of ‘may,’ . . . authorizes, but does not mandate, a transfer of a defendant to the common pleas court’s mental health docket.” *State v. Ellis*, 2013-Ohio-1184, ¶ 30 (8th Dist.). *See also State v. Jones*, 2014-Ohio-1634, ¶ 3 (8th Dist.) (“In a case where the mental health of the defendant is not determined until after arraignment, assignment to the mental health docket is discretionary.”); *State v. Lee*, 2014-Ohio-205, ¶ 14 (8th Dist.) (“Loc.R. 30.1 does not mandate the transfer of a case after arraignment. Indeed, “[t]hrough the use of “may,” the rule authorizes, but does not mandate, a transfer of a defendant to the common pleas court’s mental health docket under certain circumstances.”). Thus, if raised on direct appeal, the reviewing court considers whether the trial court abused its discretion by not transferring the case to the mental health docket. *State v. Hudson*, 2015-Ohio-5424, ¶ 15 (8th Dist.), citing *State v. Jones*, 2014-Ohio-1634, ¶ 6 (8th Dist.).

{¶ 27} In this case, the record reflects that defense counsel moved the trial court to refer Sampson to the court’s psychiatric clinic for an assessment to determine his eligibility for the court’s MMDD docket. On March 28, 2025, the trial

court issued a journal entry in Case No. CR-24-694656-A denying the request as moot. In support of its order, the trial court stated as follows:

Mental health jail liaison reported to court that defendant requested and authorized her to obtain his records from Signature Health. The records find that defendant is not eligible for the mental health docket. Defendant was further evaluated by jail psychologist and again has been found to not have any diagnosis that makes him eligible for MHDD.

{¶ 28} Upon review, we decline to second guess appellate counsel's tactics regarding the trial court's failure to assign Sampson's case to the MHDD docket. As stated, the trial court relied on Sampson's medical records and the evaluations of the jail psychologist to conclude that Sampson was not eligible for the MHDD docket. Moreover, even if Sampson were eligible for the MHDD docket, the trial court was not required to transfer his case. It had the discretion to keep the case under Loc.R. 30.1. Viewed collectively, the transcript of the proceedings in this case indicates that Sanders understood the charges against him and the penalties he faced and he was able to assist in his defense. Under these circumstances, there is nothing in the record to suggest the trial court abused its discretion when it decided to keep Sampson's case on its docket rather than transfer it to the MHDD docket. Accordingly, the second proposed assignment of error does not provide legitimate grounds for reopening Sampson's appeal.

III. Conclusion

{¶ 29} Based on the foregoing, we find Sampson has failed to present a colorable claim of ineffective assistance of appellate counsel. Accordingly, the application for reopening is denied.

{¶ 30} Application denied.

MARY J. BOYLE, JUDGE

MICHELLE J. SHEEHAN, A.J., and
KATHLEEN ANN KEOUGH, J., CONCUR