[Cite as *State v. Goodykoontz*, 2026-Ohio-4283.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	No. 116055
v.	:	
DAVID GOODYKOONTZ,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: October 29, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case Nos. CR-19-641800-A and CR-20-647818-A

Appearances:

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

David Goodykoontz, *pro se*.

MARY J. BOYLE, P.J.:

{¶ 1} In this delayed appeal, defendant-appellant David Goodykoontz ("Goodykoontz"), pro se, challenges the trial court's denial of his pro se petition for

postconviction relief and motion for a new trial. He raises the following assignments of error for review:

1. [Goodykoontz] was denied effective [counsel].
2. Appellate [counsel].
3. The jury instructions.
4. ORC 2907.323(A)(2).
5. Concurrent and minimum sentencing.
6. State Remedies were ineffective.
7. Insufficient evidence.
8. Manifest weight of evidence .
9. [Goodykoontz] pled the 5th Amendment.
10. Poll tax and discriminating against Native Americans.
11. Speedy trial for a preliminary.
12. Never delay trial.
13. Innocuous.
14. Mistaken date.
15. The county and state have broken several laws.
16. Panders child pornography.
17. Titles were concealed.
18. Federal investigations and prosecutions.
19. Immunity.
20. Malicious phrasing.
21. Lesser included offenses.

22. Files were never disseminated from [Goodykoontz]'s computer recklessly.

23. [Goodykoontz] had no culpability.

24. No sexual motivation.

25. Chantix.

26. No probable cause.

27. Classified evidence.

28. [Goodykoontz] is now diagnosed with Tourette's.

29. Not an affirmative defense.

30. Refuses to cooperate.

31. Jury instruction.

32. Trial was unfairly delayed.

33. Deterred from testifying.

34. Did not wait for the victim to bend over, and victim was not alone.

35. [Goodykoontz]'s sex toys were photographed.

36. [Goodykoontz] is a child rape victim.

37. Evidence was stale.

38. Testimony was biased with a motive to obstruct.

39. The reindictment is vindictive, or similar.

40. 37 years in prison is cruel and unusual punishment.

41. Misled the jury.

42. Each element.

43. Cuyahoga County was bias.

44. Actual Innocence.

45. The pictures had different backgrounds for the photo lineup.

46. [Goodykoontz]'s mind was altered.

47. [Goodykoontz] is mentally ill.

48. [Goodykoontz]'s legal mail was opened.

49. [Goodykoontz]'s right to work for the federal government.

50. The jury was bias[ed].

51. [Goodykoontz] was obligated to report.

52. Most electronics.

53. Rule 29 motions were denied.

54. The trial judge was biased. The state and county are corrupt, and its rulings cannot be trusted.

55. [Goodykoontz] was wrongfully given a j-walking ticket.

56. [Goodykoontz] was told he had no holds.

57. Dismissal was in error.

58. Filing Date.

59. No Jurisdiction.

{¶ 2} For the reasons set forth below, we affirm Goodykoontz's convictions.

I. Facts and Procedural History

{¶ 3} The facts underlying this appeal were previously set forth by this court in Goodykoontz's direct appeal — *State v. Goodykoontz*, 2023-Ohio-3243 (8th Dist.) ("*Goodykoontz I*"):

> Goodykoontz was indicted on July 15, 2019, in Case No. CR-19-641800-A, and charged with Count 1; gross sexual imposition under R.C. 2907.05 (A)(4), a third-degree felony. He was indicted in a second

case, Cuyahoga C.P. No. CR-20-647818-A, on January 16, 2020, and charged with the following:

> Eleven counts of pandering sexually oriented matter involving a minor, in contravention of R.C. 2907.322(A)(2), felonies of the second degree.
>
> Twelve counts of illegal use of a minor in nudity-oriented material or performance, as outlined in R.C. 2907.323(A)(2), also constituting second-degree felonies.
>
> Nine additional counts of pandering sexually oriented matter involving a minor, pursuant to R.C. 2907.322(A)(1), classified as second-degree felonies.
>
> One count of possession of criminal tools, in violation of R.C. 2923.24(A), classified as a felony of the fifth degree.
>
> A forfeiture of property, pursuant to R.C. 2941.1417(A).

Although Goodykoontz was initially indicted on Case No. CR-19-641800-A, the first case set for trial was Cuyahoga C.P. No. CR-20-647818-A. For ease of discussion Cuyahoga C.P. No. CR-20-647818-A will be referred to as the "first case."

In the first case, the Internet Crimes Against Children unit executed a search warrant on Goodykoontz's Parma home on March 22, 2019. The warrant was based on an investigation of an IP address belonging to Goodykoontz. Undercover investigators connected his IP address to a [program] used to bypass typical search engines for the purpose of disseminating and distributing child exploitation material. . . .

A search of Goodykoontz's home resulted in securing three cell phones, a laptop, and a desktop computer. Goodykoontz's devices contained search terms indicative of child exploitation and illegal files, including images of naked preadolescent boys. As a result of the search, Goodykoontz was indicted on January 16, 2020, in Cuyahoga C.P. No. CR-20-647818-A.

A jury trial commenced on February 23, 2022. . . . Goodykoontz was ultimately convicted of an amended indictment of 17 counts of pandering sexually oriented matter involving a minor, felonies of the second degree, in violation of R.C. 2907.322(A)(2); 11 counts of illegal use of minor in nudity-oriented material or performance, felonies of

> the second degree, in violation of R.C. 2907.323(A)(1); and one count of possessing criminal tools, a felony of the fifth degree, in violation of R.C. 2923.24(A), and a forfeiture of property pursuant to R.C. 2941.1417(A).
>
> The second case, Cuyahoga C.P. No. CR-19-641800-A, stemmed from an incident at Dollar General on June 18, 2019. Goodykoontz watched a child ("C.F.") browse the aisles of the store. Once C.F. bent to pick up an item, Goodykoontz caressed the child's buttocks. After reviewing the video surveillance of the incident, police charged Goodykoontz, and he was indicted of one count of gross sexual imposition under R.C. 2907.05(A)(4), a felony of the third degree.
>
> The [second] case proceeded to a jury trial on May 11, 2022. The jury found Goodykoontz guilty of gross sexual imposition, in violation of R.C. 2907.05(A)(4). Goodykoontz was sentenced in both cases on July 14, 2022. The trial court imposed an aggregate prison term of thirty-seven years and found him to be a Tier III Sex Offender.

Id. at ¶ 2-9.

{¶ 4} In *Goodykoontz I*, Goodykoontz challenged the jury instructions and his convictions and sentence. Goodykoontz argued that (1) the trial court erred when it rejected his proposed jury instruction in the first case, (2) his pandering sexually oriented material and gross sexual imposition convictions were not supported by sufficient evidence, (3) his convictions are against the manifest weight of the evidence, and (4) the trial court's imposition of consecutive sentences. Finding Goodykoontz's arguments unpersuasive, we affirmed his convictions and sentence. *Id.* at ¶ 44.

{¶ 5} Nearly 15 months later, in February 2025, Goodykoontz filed his pro se petition for postconviction relief in both cases. In support of his motion, Goodykoontz asserted several reasons, including multiple violations of his constitutional rights, ineffective assistance of counsel, perjury, immunity from

prosecution as "volunteer federal agent," bias, lack of probable cause to support the search warrant, insufficient evidence, failure to remove case to federal court, entrapment, prosecutorial misconduct, jury composition, bias against Native Americans, and the statutes on which he was convicted are overbroad. (Goodykoontz's petition for postconviction relief, Feb. 19, 2025.) The State opposed, arguing that Goodykoontz's petition was untimely because it should have been filed by November 28, 2023. The State further argued that Goodykoontz failed to demonstrate that he was unavoidably prevented from discovering the facts upon which he based the petition or that the United States Supreme Court recognized a new federal or state right that applies retroactively to Goodykoontz and his petition asserted a claim based on that new right.

{¶ 6} Then in June 2025, Goodykoontz filed a pro se motion for leave to file a motion for new trial in both cases. According to Goodykoontz, he was diagnosed with Tourette's because of "ongoing verbal and physical tics" sometime around September 2023, which "apparently" made him twitch "near the victim" and "appear to be on purpose." (Goodykoontz's motion for new trial, June 11, 2025.) The State opposed, contending that Goodykoontz's motion does not establish by clear and convincing evidence that he was unavoidably prevented from discovering his Tourette's diagnosis within 120 days of trial. The trial court denied the petition in both cases as untimely and denied Goodykoontz's motions for a new trial.

{¶ 7} Goodykoontz now appeals, raising several assignments of error for review.[1]

II. Law and Analysis

{¶ 8} As an initial matter, we note that with the majority of Goodykoontz's assigned errors, he fails to cite to the parts of the record on which he relies or fails to cite any legal authority in support of his arguments as required by App.R. 16(A)(7), which provides that an "appellant shall include in its brief . . . [a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies." *Id.* We note that this "court may disregard an assignment of error presented for review if the party raising it fails to identify in the record the error on which the assignment of error is based or fails to argue the assignment of error separately in the brief, as required under App.R. 16(A)." App.R. 12(A)(2).

{¶ 9} Furthermore, "[t]he doctrine of res judicata precludes a convicted defendant from raising an issue in a motion for postconviction relief if he [or she] raised or could have raised the issue on direct appeal." *State v. Gray*, 2022-Ohio-1945, ¶ 15 (8th Dist.), citing *State v. Sturdivant*, 2013-Ohio-584, ¶ 13 (8th Dist.), citing *State v. Perry*, 10 Ohio St.2d 175 (1967), paragraph nine of the syllabus. In this appeal, Goodykoontz challenges: his convictions through the sufficiency of the

[1] Goodykoontz lists 59 assignments of error in his appellate brief but appears to have combined assignment of error five with assignment of error four in his argument, therefore arguing 58 assignments of error in total.

evidence, the manifest weight of the evidence, other issues with trial testimony, the trial judge's alleged bias, his sentence, the jury instructions, the jury pool, defense counsel's effectiveness, appellate counsel's ineffectiveness, speedy trial issues, the validity of the search warrant, and his "jwalking ticket." These assigned errors were either presented as assignments of error in his direct appeal or could have been raised in his direct appeal.[2]

{¶ 10} Additionally, we recognize that the Ohio Supreme Court has "repeatedly declared that 'pro se litigants * * * must follow the same procedures as litigants represented by counsel.'" *State ex rel. Neil v. French*, 2018-Ohio-2692, ¶ 10, quoting *State ex rel. Gessner v. Vore*, 2009-Ohio-4150, ¶ 5. Indeed, "[p]ro se litigants are presumed to have knowledge of the law and legal procedures and are held to the same standard as litigants who are represented by counsel." *Saeed v. Greater Cleveland Regional Transit Auth.*, 2017-Ohio-935, ¶ 7 (8th Dist.), citing *In re Application of Black Fork Wind Energy, L.L.C.*, 2013-Ohio-5478, ¶ 22. And while a pro se litigant may be afforded reasonable latitude, there are limits to a court's leniency, including "attempting to address a pro se litigant's arguments on the merits when they are indecipherable[.]" *French* at ¶ 11, citing *Angus v. Angus*, 2015-Ohio-2538, ¶ 10 (10th Dist.) "[I]t is not for this court to assume the role of advocate

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[2] Insofar as Goodykoontz argues that he was denied effective assistance from appellate counsel, the proper vehicle to raise that issue is an application to reopen appeal under App.R. 26(B), not a petition for postconviction relief. *State v. Clark*, 2025-Ohio-4410, ¶ 15, citing *State v. Murnahan*, 63 Ohio St.3d 60 (1992) (finding that claims regarding ineffective assistance of appellate counsel are not cognizable in petitions for postconviction relief).

for the pro se litigant . . . . Nor is it this court's duty to search for authority or to root out an argument to support an appellant's assignment of error." (Citations omitted.) *Djurin v. Ginley*, 2023-Ohio-1041, ¶ 13 (8th Dist.).

{¶ 11} Thus, in light of the foregoing, we decline to address assignments of error Nos. 1-4, 6-17, 19-23, 25-26, 28, 30-42, and 44-55 on the basis of App.R. 12(A)(2) or the doctrine of res judicata.

{¶ 12} As a result, our discussion will focus on the remaining assigned errors to the extent they are relevant to Goodykoontz's petition for postconviction relief and motion for new trial.

Petition for Postconviction Relief and Motion for a New Trial

A. Standard of Review

{¶ 13} Appellate courts review a trial court's decision granting or denying a petition for postconviction relief and a motion for new trial for an abuse of discretion. *State v. Gondor*, 2006-Ohio-6679, ¶ 58; *State v. Addison*, 2024-Ohio-5805, ¶ 9 (8th Dist.), citing *State v. Walker*, 2023-Ohio-2689, ¶ 11 (8th Dist.), citing *State v. Hill*, 2020-Ohio-102, ¶ 13 (8th Dist.). An abuse of discretion occurs when a court exercises "its judgment, in an unwarranted way, in regard to a matter over which it has discretionary authority." *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35. However, whether the trial court has subject-matter jurisdiction to entertain an untimely petition for postconviction relief is a question of law that we review de novo. *State v. Apanovitch*, 2018-Ohio-4744, ¶ 24, citing *State v. Kane*, 2017-Ohio-7838, ¶ 9 (10th Dist.). In a de novo review, we afford no deference to the trial court's

decision. *State v. Buehner*, 2021-Ohio-4435, ¶ 43 (8th Dist.), citing *Brownlee v. Cleveland Clinic Found.*, 2012-Ohio-2212, ¶ 9 (8th Dist.), citing *Akron v. Frazier*, 142 Ohio App.3d 718, 721 (9th Dist.2001).

B. Petition for Postconviction Relief

{¶ 14} In assignments of error Nos. 5, 18, 24, 27, 29, 43, and 56-58, Goodykoontz challenges the denial of his petition for postconviction relief.

{¶ 15} R.C. 2953.21(A)(2) provides that a petition for postconviction relief must be filed within 365 days from the filing of the trial transcripts in the petitioner's direct appeal or, if a direct appeal was not pursued, 365 days after the expiration of the time in which a direct appeal could have been filed. Here, Goodykoontz filed his petition approximately 15 months after the filing of the trial transcripts in his direct appeal. Therefore, his petition is untimely.

{¶ 16} "A trial court generally has no jurisdiction to consider an untimely or successive petition." *State v. Johnson*, 2024-Ohio-134, ¶ 1, citing *Apanovitch* at ¶ 35-36, 38. "This jurisdictional bar, however, is not insurmountable. A petitioner can overcome the bar if he shows that he was 'unavoidably prevented' from discovering the facts on which his claim relies and that but for constitutional error at trial, he would not have been convicted." *Id.*, citing R.C. 2953.23(A)(1); *State v. Bethel*, 2022-Ohio-783, ¶ 20.

{¶ 17} Under R.C. 2953.23(A)(1)(a) and (b), a trial court may entertain an untimely petition only if the petitioner was unavoidably prevented from discovering the facts on which the petition is predicated or the United States Supreme Court has

recognized a new federal or State right that applies retroactively to the petitioner and the petition asserts a claim based on that new right. If the petitioner can satisfy one of these threshold conditions, the petitioner must then demonstrate that, but for the constitutional error at trial, no reasonable factfinder would have found him or her guilty of the offenses of which he or she was convicted. R.C. 2953.23(A)(1)(b). The Ohio Supreme Court has described "unavoidably prevented" as demonstrating that "any delay in discovering the facts undergirding the petition was 'incapable of being avoided or evaded[.]'" *State v. Johnson*, 2024-Ohio-134, ¶ 24, quoting *Merriam-Webster's Collegiate Dictionary* (11th Ed. 2003).

{¶ 18} Here, Goodykoontz failed to establish he was unavoidably prevented from discovering the facts on which his petition is predicated and failed to identify any new or federal rights that applies retroactively to him. The majority of his contentions — his Tourette's diagnosis, immunity from prosecution, and issues with a drug he took — are all issues that would have been known to him at or shortly after his trial concluded. Additionally, Goodykoontz failed to provide any proof of his 2023 Tourette's diagnosis and failed to establish that the docketing issues he alleges unavoidably prevented him from discovering these facts.

{¶ 19} The only support for Goodykoontz's claims is his self-serving affidavit. As this court has previously stated, unsubstantiated, self-serving allegations are insufficient to demonstrate that a petitioner was unavoidably prevented from filing a timely petition for postconviction relief. (Citations omitted.) *State v. Jones*, 2026-Ohio-1455, ¶ 43 (8th Dist.); *see also State v. Barrow*, 2020-

Ohio-3719 (8th Dist.) (finding that with postconviction motions, a "'trial court may discount self-serving affidavits from the petitioner or his family members.'" *Id.* at ¶ 9, quoting *State v. Stedman*, 2004-Ohio-3298, ¶ 29 (8th Dist.)).

{¶ 20} Thus, we find that the trial court did not abuse its discretion in denying Goodykoontz's untimely petition for postconviction relief because he did not satisfy the jurisdictional requirements permitting the trial court to entertain the petition.

C. Motion for New Trial

{¶ 21} Crim.R. 33(A)(6) provides that a new trial may be granted on motion of the defendant "[w]hen new evidence material to the defense is discovered which the defendant could not with reasonable diligence have discovered and produced at the trial." Crim.R. 33(B) provides that an application for a new trial must be made within 14 days after the verdict was rendered. However, if the motion was made on the account of newly discovered evidence, the rule provides that this motion "must be made within 120 days after the day upon which the verdict was rendered." Crim.R. 33(B). "If a defendant files a motion for a new trial after the expiration of that time, the defendant must first seek leave of the trial court to file a delayed motion for a new trial." *State v. Gibson*, 2023-Ohio-4792, ¶ 18 (8th Dist.). To obtain leave to file a delayed new-trial motion, the defendant must demonstrate "'by clear and convincing proof that the defendant was unavoidably prevented from filing his motion for a new trial[.]'" *Id.* at ¶ 19, quoting Crim.R. 33(B).

{¶ 22} We note that "'[t]he "unavoidably prevented" requirement in Crim.R. 33(B) mirrors the "unavoidably prevented" requirement in R.C. 2953.23(A)(1).'" *Bethel*, 2022-Ohio-783, at ¶ 59, citing *State v. Barnes*, 2018-Ohio-1585, ¶ 28 (5th Dist.). Clear and convincing evidence has been defined as that "measure or degree of proof which is more than a mere 'preponderance of the evidence,' but not to the extent of such certainty as is required 'beyond a reasonable doubt' in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established." *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶ 23} As with his petition for postconviction relief, Goodykoontz likewise failed to establish he was unavoidably prevented from filing a timely motion for new trial. In his pro se motion for leave to file a motion for a new trial, Goodykoontz asserted, among other things, that several medical and mental health diagnoses prevented him from filing a timely motion. Goodykoontz, however, stated that he knew of his Tourette's diagnosis in 2023, but he did not provide any evidence of his diagnosis — he did not include an affidavit or any supporting documentation with his motion.

{¶ 24} This court has stated that "[a] defendant's 'mere allegation' that he or she was unavoidably prevented from discovering the evidence he or she seeks to introduce to support a new trial does not meet [the clear and convincing] burden." *State v. Smith*, 2024-Ohio-1360, ¶ 49 (8th Dist.), citing *State v. McFarland*, 2022-Ohio-4638, ¶ 17 (8th Dist.); *State v. Hubbard*, 2020-Ohio-2726, ¶ 29 (8th Dist.);

State v. Cowan, 2020-Ohio-666, ¶ 10 (8th Dist.). Because there is no evidence on which to base Goodykoontz's claim that he was unavoidably prevented from filing a timely motion for new trial, he has failed to demonstrate that he obtained "newly discovered evidence" and, therefore, we find that he failed to satisfy the requirements of Crim.R. 33(B). *See State v. Orr*, 2025-Ohio-5514, ¶ 30 (8th Dist.).

{¶ 25} Accordingly, we find that the trial court did not abuse its discretion in denying Goodykoontz's motion for leave to file a motion for a new trial.

{¶ 26} Therefore, Goodykoontz's remaining assignments of error are overruled.

{¶ 27} Judgment is affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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MARY J. BOYLE, PRESIDING JUDGE

ANITA LASTER MAYS, J., and
TIMOTHY W. CLARY, J., CONCUR