[Cite as *State v. Martin*, 2026-Ohio-4289.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	No. 116249
v.	:	
TRAMAINE E. MARTIN,	:	
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 No. CR-16-612220-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Anthony T. Miranda, Assistant Prosecuting Attorney, *for appellee*.

Tramaine E. Martin, *pro se*.

EILEEN A. GALLAGHER, J.:

{¶ 1} Tramaine Martin ("Martin") appeals the trial court's denial of his successive petition for postconviction relief. For the reasons that follow, we affirm.

Facts and Procedural History

{¶ 2} This is Martin's fifth appeal to this court concerning his underlying criminal convictions in the same case. In December 2016, Martin was charged in a five-count indictment from allegations that he sexually assaulted his ex-girlfriend's ten-year-old niece. Martin was tried and found guilty of attempted rape, gross sexual imposition and kidnapping with a sexual-motivation specification. Martin was sentenced to an indefinite prison term of ten years to life. In July 2017, Martin appealed his sentence. Martin's sentence and convictions were affirmed by this court in *State v. Martin*, 2018-Ohio-1843 (8th Dist.) ("*Martin I*").

{¶ 3} The same day that Martin filed his notice of appeal for *Martin I*, he filed a petition for postconviction relief in the trial court, which the trial court denied. Martin did not appeal this denial.

{¶ 4} In January 2019, Martin filed a second petition for postconviction relief on different grounds. The trial court denied that motion and this court affirmed that denial in *State v. Martin*, 2019-Ohio-4463, ¶ 19 (8th Dist.) ("*Martin II*").

{¶ 5} In June 2022, Martin filed an application for postconviction DNA testing in the trial court in which he requested that the victim's underwear be retested. The trial court denied the motion. This court affirmed that denial in *State v. Martin*, 2023-Ohio-3153, ¶ 19 (8th Dist.) ("*Martin III*").

{¶ 6} In May 2024, Martin filed a pro se motion to correct an illegal sentence. The trial court denied that motion and this court affirmed that denial in *State v. Martin*, 2024-Ohio-5486, ¶ 22 (8th Dist.) ("*Martin IV*").

{¶ 7} Also in May 2024, Martin filed a successive petition for postconviction relief in which he argued that the State failed to disclose at trial the name of the author for the Cuyahoga County Division of Children and Family Services ("CCDCFS") report and the laboratory notes for the Bureau of Criminal Investigations ("BCI") item No. 1.7.2B, which was the consumed swab from the back panel of the victim's underwear. The trial court denied Martin's successive petition on March 27, 2025.

{¶ 8} Martin appeals that denial raising the following three assignments of error:

> **Assignment of Error I:** The trial court erred in not properly journalizing its rulings and violating the "one-document" rule.
>
> **Assignment of Error II:** The trial court erred, as a matter of law, in denying post-conviction relief without first determining the threshold question of jurisdiction.
>
> **Assignment of Error III:** The trial court erred in not filing findings of fact and conclusions of law when Martin raised new ground(s) for relief.

Law and Analysis

{¶ 9} R.C. 2953.21(A)(2)(a) 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. Martin's transcript was filed in *Martin I* on September 5, 2017. Martin's petition for postconviction relief in this case was filed on May 6, 2024. As such, Martin's petition is facially untimely.

{¶ 10} "Because the timeliness requirement of R.C. 2953.23 is jurisdictional, a trial court does not have jurisdiction to entertain

an untimely petition for postconviction relief unless the exceptions set forth under R.C. 2953.23 are satisfied." *State v. Atahiya*, 2021-Ohio-1488, ¶ 21 (8th Dist.).

> R.C. 2953.23(A)(1)(a) permits a trial court to entertain an untimely petition only if:
>
> (1) the petitioner was unavoidably prevented from discovering the facts on which the petition is predicated, or
>
> (2) 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.

Id. Martin alleges in his petition that he was unavoidably prevented from discovering the facts on which his petition is predicated pursuant to R.C. 2953.23(A)(1)(a).

{¶ 11} "If the petitioner can satisfy one of these threshold conditions, he or she must then demonstrate by clear and convincing evidence 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)." *Id.* at ¶ 22.

{¶ 12} Our standard of review in this case was set forth in *Atahiya*:

> Typically, a reviewing court reviews a trial court's decision granting or denying a petition for postconviction relief for an abuse of discretion. *Gondor*, 112 Ohio St.3d 377, 2006-Ohio-6679, 860 N.E.2d 77, at ¶ 58. However, whether the trial court possessed subject matter jurisdiction to entertain an untimely petition for postconviction relief is a question of law, which we review de novo. *State v. Apanovitch*, 155 Ohio St.3d 358, 2018-Ohio-4744, 121 N.E.3d 351, ¶ 24.

Assignment of Error I

{¶ 13} In his first assignment of error, Martin argues that the trial court's judgment entry denying his petition violates the "one-document" rule as stated in *State v. Baker*, 2008-Ohio-3330, ¶ 17. He also argues in his brief that the trial court's judgment entry here is flawed because it does not "bare a judge's signature" and the accompanying order does not "bare a label or a time-stamp of the clerk."

{¶ 14} *Baker* establishes the four requirements for a judgment of conviction to be a final appealable order under R.C. 2505.02. *Id.* at ¶ 18. This case and its rule are not applicable here because Martin is taking issue with the judgment entry denying his petition, not his judgment of conviction, with which he raises no issues.

{¶ 15} Furthermore, while the trial court's judgment entry does not have the judge's signature it is time stamped by the clerk's office. The order ends with "OSJ." As previously explained by this court, "OSJ" means to "order see journal" or "order see judgment." *Moore v. Russo*, 2017-Ohio-9166, ¶ 13 (8th Dist.). "OSJ" means that the signed judgment is attached to the order, which was the case here since the attached order did contain the judge's signature. *Id.* In *Moore* this court held that a judgment entry that contains the clerk's time-stamp and has "OSJ" written with an attached and signed order is proper. *Id.* Just as in *Moore*, here the judgment entry did contain both the clerk's time-stamp with "OSJ" written and had an attached order with the judge's signature. This judgment entry is therefore proper.

{¶ 16} Martin's first assignment of error is overruled.

Assignment of Error II

{¶ 17} Martin's second assignment of error alleges that the trial court erred by denying the petition without determining if it had jurisdiction. Again, we review whether a trial court possessed subject matter jurisdiction de novo. *State v. Bethel*, 2022-Ohio-783, ¶ 20.

{¶ 18} In this case, the trial court would not have jurisdiction to hear Martin's successive postconviction petition if he was unable to satisfy R.C. 2953.23(A)(1)(a) by establishing he was "unavoidably prevented from discovery of the facts." "R.C. 2953.23 puts the onus on the petitioner to show that he was unavoidably prevented from discovering the facts on which his petition relies." *State v. Johnson*, 2024-Ohio-134, ¶ 13. The petitioner has a duty to present sufficient evidence to carry this burden at the time the petition is filed. *Id.* at ¶ 26.

{¶ 19} "Unavoidably prevented from discovery of the facts" means the postconviction relief petitioner was (1) unaware of those facts; and (2) unable "'to learn of them through reasonable diligence.'" *State v. Harrison*, 2018-Ohio-1396, ¶ 6 (8th Dist.), quoting *State v. Short*, 2003-Ohio-3538, ¶ 9 (8th Dist.).

{¶ 20} "In *Brady* [*v. Maryland*, 373 U.S. 83 (1963)] the Supreme Court of the United States held that a state violates the Fourteenth Amendment to the United States Constitution when it 'withholds evidence that is favorable to the defense and material to the defendant's guilt or punishment.'" *Bethel*, 2022-Ohio-783, at ¶ 19, quoting *Smith v. Cain*, 565 U.S. 73, 75 (2012) (summarizing *Brady's* holding). "'There are three components of a true *Brady* violation: The evidence at issue must

be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.'" *Bethel* at ¶ 19, quoting *Strickler v. Greene*, 527 U.S. 263, 281-282 (1999).

{¶ 21} The Ohio Supreme Court has held that "when a defendant seeks to assert a *Brady* claim in an untimely or successive petition for postconviction relief, the defendant satisfies the unavoidably prevented requirement contained in R.C. 2953.23(A)(1)(a) by establishing that the prosecution suppressed the evidence on which the defendant relies." *Bethel* at ¶ 25. "There is no *Brady* violation where evidence is disclosed or introduced during trial." *State v. Collins*, 2020-Ohio-4136, ¶ 14 (8th Dist.); *See State v. Iacona*, 93 Ohio St.3d 83, 100 (2001).

{¶ 22} Martin alleges in his petition that the State withheld evidence in violation of *Brady*. The allegedly withheld evidence is the name of the author of the CCDCFS report and the BCI laboratory notes for item No. 1.7.2.B. The exhibits attached to Martin's petition to support these allegations include (1) a journal entry ordering CCDCFS to produce records to the court for an in camera inspection and transcript pages from a hearing in Martin's case showing the State had produced "CFS records" and that Martin's counsel had not yet reviewed them; (2) BCI Laboratory Reports; (3) a journal entry from the trial court in CR-14-587110-B; and (4) a couple of transcript pages from Martin's trial from the testimonies of Andrea Dennis, a forensic scientist, and Lindsay Pruneski, a forensic biologist, both of whom conducted DNA testing at the BCI for the State.

{¶ 23} Regarding the CCDCFS report, Martin alleges that if he had known the author of the CCDCFS report he would have been able to call the author to the stand to question him regarding his conclusions. Martin alleges that the copy of the report he received prior to trial was redacted to conform to confidentiality requirements.

{¶ 24} Martin, however, failed to attach a copy of this report to his petition and his allegation in his petition that the report was redacted to conform to confidentiality requirements does not firmly establish that the report's author was redacted and unknown to him. Furthermore, if Martin received the report, even if redacted, then the report was not suppressed as it was disclosed and provided to him and he provides no reasons why he would have been unable to call the author of a report that was ordered by the trial court for an in camera inspection before being provided to the parties. No affidavit was attached to his petition to verify any statements made in his petition. None of the exhibits attached to the petition establish that the author of the report was kept from him by the State or even at all. This is not sufficient to establish that this evidence was suppressed in violation of *Brady*.

{¶ 25} Regarding the BCI laboratory notes for item No 1.7.2.B, Martin alleges the results from the swab of the back panel of underwear were exculpatory and the notes were "favorable" to him because they "disclosed the weakness of the amylase found[.]" Martin then argues that the attached exhibit testimony shows the forensic scientists admitted to manipulating the swab to concentrate the sample.

{¶ 26} Again, Martin fails to support his allegation that this evidence was suppressed, i.e., withheld from him by the State. Martin does not provide an affidavit stating that he never received the report in discovery and the State's response to defendant's request for discovery filed on January 30, 2017, lists the provided discovery materials and included there is "DNA Report." While the report is not attached, such that this court cannot confirm with 100 percent certainty that it is the same BCI report Martin alleges was suppressed, Martin at no point states this DNA report was not the BCI report. The mere fact that the BCI report was disclosed and provided to Martin establishes that this evidence was not suppressed and no *Brady* violation occurred. Because Martin had the report, if he wanted additional documentation such as laboratory notes, he was more than capable of requesting the additional documentation in discovery. His failure to do so does not amount to suppressed evidence.

{¶ 27} Because these reports were disclosed to Martin, he fails to establish a *Brady* violation because the evidence was never suppressed by the State. *Collins*, 2020-Ohio-4136, at ¶ 14. Failure to establish a *Brady* violation also means Martin has failed to establish that he was "unavoidably prevented from discovery of the facts" because the evidence was not suppressed. *Bethel*, 2022-Ohio-783, at ¶ 25. He presents no other evidence establishing how he was unavoidably prevented from the discovery of facts related to the two reports which he does not dispute he received prior to trial.

{¶ 28} "'[A] petitioner's failure to satisfy R.C. 2953.23(A) deprives a trial court of jurisdiction to adjudicate the merits of an untimely or successive postconviction petition.'" *State v. Kenney*, 2025-Ohio-4841, ¶ 17 (8th Dist.), quoting *Apanovitch*, 2018-Ohio-4744, at ¶ 36. A trial court properly denies an untimely and successive petition when it lacks authority to entertain it pursuant to R.C. 2953.23(A). *State v. Little*, 2021-Ohio-1446, ¶ 9 (9th Dist.).

{¶ 29} Wherefore, because Martin is unable to satisfy the requirements of R.C. 2953.23(A)(1)(a), the trial court was without jurisdiction to entertain his untimely and successive petition as a matter of law and properly denied it.

{¶ 30} Martin's second assignment of error is overruled.

Assignment of Error III

{¶ 31} In his third, and last, assignment of error Martin alleges the trial court erred by not issuing findings of fact and conclusions of law when it denied Martin's petition despite him raising new grounds for relief.

{¶ 32} "A trial court has no duty to issue findings of fact and conclusions of law when it dismisses untimely or successive petitions for postconviction relief." *Kenney*, 2025-Ohio-4841, at ¶ 17. Technically, the trial court in this case denied Martin's petition rather than dismissing it for lack of jurisdiction. Courts have "previously advised that trial courts should dismiss a petition for postconviction relief when jurisdiction is lacking rather than denying the petition on some other grounds." *State v. Jones*, 2019-Ohio-1014, ¶ 17 (10th Dist.). Nevertheless, we may conclude the trial court did not err in its disposition of Martin's petition and affirm

its judgment. *Id.* at ¶ 18; *see State v. Ali*, 2021-Ohio-4303, ¶ 13 (8th Dist.) (Because the trial court lacked jurisdiction to hear the untimely and successive petition for postconviction relief, the trial court did not err by summarily denying it.).

{¶ 33} As such, because the trial court lacked jurisdiction to hear Martin's untimely and successive petition, the trial court did not err in summarily denying Martin's petition without issuing findings of fact and conclusions of law.

{¶ 34} Martin's third assignment of error is overruled.

Vexatious Litigator

{¶ 35} This is Martin's fifth unsuccessful appeal regarding his underlying criminal convictions in the same case. Martin is hereby forewarned that if he continues to file frivolous appeals, this may result in him being declared a vexatious litigator by this court and be subjected to future appellate filing requirements under Loc.App.R. 23(B)-(C).

{¶ 36} Judgment 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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EILEEN A. GALLAGHER, JUDGE

MICHAEL JOHN RYAN, P.J., and
TIMOTHY W. CLARY, J., CONCUR