

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 31833

Appellee

v.

KEITH GILCREAST

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CR-2002-11-3315-B

Appellant

DECISION AND JOURNAL ENTRY

Dated: September 16, 2026

FLAGG LANZINGER, Judge.

{¶1} Keith L. Gilcreast appeals, pro se, the judgment of the Summit County Court of Common Pleas. This Court affirms.

I.

{¶2} In 2003, a jury found Gilcreast guilty of multiple felonies including, inter alia, murder, attempted murder, and felonious assault. The trial court sentenced Gilcreast to an aggregate term of 46 years to life in prison. Gilcreast appealed. “This Court affirmed Gilcreast’s convictions but sustained, in part, a challenge to his sentence based on our conclusion that the trial court failed to make the requisite findings in support of consecutive sentences.” *State v. Gilcreast*, 2015-Ohio-4745, ¶ 2 (9th Dist.), citing *State v. Gilcreast*, 2003-Ohio-7177 (9th Dist.). “We remanded the matter with instructions [for the trial court] to make the required statutory findings. In accordance with our decision, the trial court held a hearing and issued a journal entry stating its findings on June 30, 2004.” *Gilcreast*, 2015-Ohio-4745, at ¶ 2. “Gilcreast appealed from the

court's journal entry, but this Court dismissed the appeal for want of jurisdiction. Although the trial court's order listed its findings for consecutive sentences, it was not a final, appealable order because the court failed to impose a sentence." (Internal citations omitted.) *State v. Gilcreast*, 2020-Ohio-1207, ¶ 3 (9th Dist.) "More than a decade later, [] Gilcreast filed a motion to 'revise/correct' the trial court's entry, which the trial court denied. He appealed the court's decision, and this Court affirmed." *Id.*, citing *Gilcreast*, 2015-Ohio-4745.

{¶3} Since that time, Gilcreast has continued to file motions in the trial court challenging his convictions. Gilcreast has been largely unsuccessful. Most recently, in 2025, Gilcreast filed a motion seeking to vacate a void judgment and sentence. He asserted the judgment was void "due to multiple jurisdictional, structural, statutory, and constitutional violations." In the motion, Gilcreast listed nine grounds for relief, ranging from alleged deficiencies in the preliminary proceedings and indictment to problems with the verdict forms and sentencing. He did not explain how the defects rendered the judgment void in his particular case. Instead, for each ground, Gilcreast merely included a single sentence stating an alleged error followed by a citation or citations to various authorities. In the following page, Gilcreast asserted that the defects deprived the trial court of subject matter jurisdiction, rendered the judgment void, and allowed it to be corrected at any time. However, again, Gilcreast did not offer any argument explaining why the same was true in this matter. Gilcreast's motion was devoid of analysis and was conclusory.

{¶4} The State responded in opposition arguing that Gilcreast's motion should be construed as an untimely petition for post-conviction relief which the trial court lacked authority to consider, or, if not, Gilcreast's arguments were barred by res judicata. Gilcreast filed a reply asserting that his motion was not a petition for post-conviction relief and that the trial court had jurisdiction because the judgment was void.

{¶5} On January 13, 2026, the trial court issued an entry denying Gilcreast’s motion. The trial court concluded that the motion was properly considered as a petition for post-conviction relief and that, because the motion was untimely and Gilcreast did not satisfy R.C. 2953.23(A)(1), the trial court did not have jurisdiction over the matter.

{¶6} Gilcreast has appealed, raising three assignments of error for our review.

II.

ASSIGNMENT OF ERROR I

THE TRIAL COURT ERRED BY RECHARACTERIZING A MOTION CHALLENGING A VOID JUDGMENT AS A PETITION FOR POSTCONVICTION RELIEF AND DECLINING TO EXERCISES IT[S] INHERENT AUTHORITY TO DETERMINE WHETHER IT[S] JUDGMENT WAS VOID.

ASSIGNMENT OF ERROR II

THE TRIAL COURT VIOLATED DUE PROCESS BY DENYING APPELLANT’S MOTION WITHOUT ADDRESSING JURISDICTIONAL AND STRUCTURAL DEFECTS RENDERING THE JUDGMENT VOID.

ASSIGNMENT OF ERROR III

THE TRIAL COURT ERRED BY CONCLUDING IT LACKED JURISDICTION TO DETERMINE WHETHER IT[S] OWN JUDGMENT AND SENTENCE WERE ENTERED WITHOUT LAWFUL AUTHORITY.

{¶7} Gilcreast’s arguments on appeal are limited and somewhat difficult to follow. However, the essence of his arguments is that the trial court erred in denying his motion to vacate the judgment and sentence because it was void and, thus, it was improper for the trial court to characterize the motion as a petition for post-conviction relief.

{¶8} Here, the trial court construed Gilcreast’s motion as a petition for post-conviction relief. “Generally, ‘[w]e review a trial court’s decision denying a petition for postconviction relief under an abuse of discretion standard.’” *State v. Melendez-Perez*, 2024-Ohio-873, ¶ 8 (9th Dist.), quoting *State v. Daniel*, 2013-Ohio-3510, ¶ 7 (9th Dist.). “Our standard of review is de novo,

however, when the trial court denies a petition solely on the basis of an issue of law.” *Melendez-Perez* at ¶ 8, citing *State v. Childs*, 2011-Ohio-913, ¶ 9. “Whether a defendant’s post-conviction relief petition satisfied the procedural requirements set forth in R.C. 2953.21 and R.C. 2953.23 is an issue of law.” *Melendez-Perez* at ¶ 8, quoting *Childs* at ¶ 9.

{¶9} This Court has stated that “[a] vaguely titled motion, including a motion to correct or vacate a judgment or sentence, may be treated as a petition for postconviction relief under R.C. 2953.21(A)(1) when the motion was filed after a direct appeal, alleged a denial of constitutional rights, sought to render the judgment void or voidable, and requested that the judgment and sentence be vacated.” *State v. Ibn-Ford*, 2026-Ohio-643, ¶ 6 (9th Dist.), quoting *State v. Powell*, 2025-Ohio-2385, ¶ 8 (9th Dist.), quoting *State v. Wright*, 2022-Ohio-366, ¶ 12 (9th Dist.). It was this law that the trial court relied upon in construing Gilcreast’s motion as a petition for post-conviction relief. Gilcreast has not set forth any argument either below or on appeal demonstrating that his motion failed to meet the criteria set forth above. Further, the Supreme Court of Ohio has recently held that “R.C. 2953.21 provides the exclusive mechanism ‘by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case[.]’” *State v. Hill*, 2026-Ohio-1427, ¶ 2, quoting R.C. 2953.21(K). Thus, Gilcreast has failed to meet his burden on appeal to establish that the trial court erred in characterizing his motion as a petition for post-conviction relief.

{¶10} “[A] petition for post-conviction relief ‘shall 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[.]’” *Ibn-Ford* at ¶ 7, quoting R.C. 2953.21(A)(2)(a). Nonetheless, “R.C. 2953.23(A) provides for a limited set of circumstances under which a prisoner

may file a petition for post-conviction relief that is either untimely or successive.” *Ibn-Ford* at ¶ 8.

Specifically, a trial court does not have authority to entertain an untimely or successive petition for post-conviction relief unless 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 [R.C. 2953.21(A)(2)] 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 or, if the claim challenges a sentence of death that, but for constitutional error at the sentencing hearing, no reasonable factfinder would have found the petitioner eligible for the death sentence.”

Ibn-Ford at ¶ 8, quoting R.C. 2953.23(A)(1).

{¶11} Here, Gilcreast has not argued, let alone demonstrated, that his petition was timely or that he satisfied the requirements of R.C. 2953.23(A)(1). Accordingly, Gilcreast has not established that the trial court erred in concluding that it lacked the authority to entertain his untimely petition for post-conviction relief. *See Ibn-Ford* at ¶ 9.

{¶12} Gilcreast’s assignments of error are overruled.

III.

{¶13} Gilcreast’s assignments of error are overruled. The judgment of the Summit County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JILL FLAGG LANZINGER
FOR THE COURT

HENSAL, P. J.
STEVENSON, J.
CONCUR.

APPEARANCES:

KEITH GILCREAST, pro se, Appellant.

ELLIOT KOLKOVICH, Prosecuting Attorney, and C. RICHLEY RALEY, JR., Assistant Prosecuting Attorney, for Appellee.