[Cite as *State v. Reed*, 2026-Ohio-4418.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF WAYNE	)	

STATE OF OHIO Appellee v. LASHAUN M. REED Appellant	C.A. No. 26AP0011 APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF WAYNE, OHIO CASE No. 12-CR-0034

DECISION AND JOURNAL ENTRY

Dated: November 9, 2026

MANNING, Judge.

{¶1} Defendant-Appellant, Lashaun Reed, appeals from the judgment of the Wayne County Court of Common Pleas. This Court affirms in part and reverses in part.

I.

{¶2} In 2012, Mr. Reed was convicted of aggravated murder, murder, and several firearm specifications. Two eyewitnesses placed him at the scene of the shooting. The first eyewitness, who was Mr. Reed's half-brother, said that he saw Mr. Reed shoot the victim. He said that Mr. Reed had a gun, it discharged when the victim tried to grab it, the two wrestled over it as they fell to the ground, and Mr. Reed shot the victim from a standing position once he extricated himself. The second eyewitness said that she saw Mr. Reed fire a gun toward the victim, but she ran before anything else happened. Mr. Reed claimed that he was innocent and that the evidence tended to show his half-brother was responsible for the shooting. The jury rejected his claim, and

this Court affirmed his convictions save for ordering a correction in the imposition of his post-release control. *See State v. Reed*, 2013-Ohio-3970, ¶ 93 (9th Dist.).

{¶3} In 2025, Mr. Reed filed a pro se application for DNA testing. He sought to have the victim's clothing tested for DNA to establish that he was not the individual who wrestled with the victim over a gun and shot him. The State filed a brief in opposition to Mr. Reed's application and, the following day, filed an amended brief in opposition. Upon review of the written filings, the trial court issued its decision. The court wrote: "Defendant has filed an application for DNA testing. Pursuant to the arguments presented by the State, the application is denied."

{¶4} Mr. Reed now appeals from the trial court's judgment. He raises two assignments of error for review.

II.

ASSIGNMENT OF ERROR I

> [MR. REED] WAS DENIED DUE PROCESS AND FUNDAMENTAL FAIRNESS UNDER THE OHIO AND U.S. CONSTITUTIONS WHEN HE WAS NOT PERMITTED TO REPLY TO THE STATE'S OPPOSITION TO HIS MOTION FOR DNA TESTING.

{¶5} In his first assignment of error, Mr. Reed argues that the trial court denied him due process when it ruled on his application for DNA testing without affording him an opportunity to file a reply brief in support of his application. For the following reasons, we reject his argument.

{¶6} "Ohio law provides eligible offenders the opportunity to apply for postconviction DNA testing as described in R.C. 2953.71 through 2953.81." *State v. Scott*, 2022-Ohio-4277, ¶ 6. If an eligible offender submits an application for DNA testing, R.C. 2953.73(C) allows but does not require the State to file a response. The statute sets forth a specific filing deadline of 45 days for any response filed by the State. R.C. 2953.73(C). It does not address an applicant's right of reply or provide a timeframe for the filing of a reply. *See id.* Nor does it require a trial court to

hold an evidentiary hearing before ruling on an application. R.C. 2953.73(D). The statute instructs trial courts to consider

> the application, the supporting affidavits, and the documentary evidence and, in addition to those materials, . . . all the files and records pertaining to the proceedings against the applicant, including, but not limited to, the indictment, the court's journal entries, the journalized records of the clerk of the court, and the court reporter's transcript and all responses to the application filed under [R.C. 2953.73(C)] by a prosecuting attorney or the attorney general, unless the application and the files and records show the applicant is not entitled to DNA testing, in which case the application may be denied.

R.C. 2953.73(D). Again, a reply brief filed by the applicant is not one of the items listed for the trial court's consideration. *See id.*

{¶7} Mr. Reed argues that he was denied due process when the trial court ruled on his application for DNA testing without affording him an opportunity to reply to the State's brief in opposition. He argues that "[a] trial court commits prejudicial error by granting the State's Motion for Summary Judgment in an action for post-conviction relief without giving the petitioner an opportunity to respond to the State's motion for summary judgment within the time frame established by the Local Rules of the Common Pleas Court." He relies on *State v. Nalls*, 2005-Ohio-6260 (2d Dist.) and *State v. Pless*, 91 Ohio App.3d 197 (6th Dist. 1993).

{¶8} Upon review, Mr. Reed has not demonstrated that the trial court erred by ruling on his application for DNA testing without waiting for him to file a reply brief. Post-conviction proceedings are a form of statutory relief and are treated as a civil, collateral attack on a criminal judgment. *See State v. Noling*, 2016-Ohio-8252, ¶ 16. For that reason, post-conviction petitioners are not entitled to greater rights than those afforded them by statute. *See State v. Apanovitch*, 2018-Ohio-4744, ¶ 35. *See also State v. Myers*, 2026-Ohio-1303, ¶ 295 (2d Dist.). As noted, R.C. 2953.73(C) does not provide for the filing of a reply brief by an applicant in support of an application for DNA testing. Nor does R.C. 2953.73(D) list a reply brief as one of the items a trial

court must consider in ruling on an application. To the extent Mr. Reed relies on *Nalls* and *Pless*, both cases recognized a defendant's right to file a reply in instances where a court's local rules specifically provided for a right of reply within a designated period. *See Nalls* at ¶ 11-12; *Pless* at 198-199. Mr. Reed has not cited to any such local rule in this matter. *See* App.R. 16(A)(7). Because he has not shown that the trial court erred by ruling on his application without affording him an opportunity to file a reply brief, his first assignment of error is overruled.

ASSIGNMENT OF ERROR II

> THE TRIAL COURT ERRED, ABUSED ITS DISCRETION AND DENIED [MR. REED] DUE PROCESS AND FUNDAMENTAL FAIRNESS UNDER THE OHIO AND U.S. CONSTITUTIONS WHEN [MR. REED'S] MOTION FOR DNA TESTING WAS DENIED CONTRARY TO LAW, AND DONE SO WITHOUT FINDINGS OF FACTS AND CONCLUSIONS OF LAW TO JUSTIFY THE SAME.

{¶9} In his second assignment of error, Mr. Reed argues that the trial court erred when it ruled on his application for DNA testing without offering supporting rationale for its decision. For the following reasons, we sustain his argument.

{¶10} Before a court can accept an application for DNA testing in a matter where a DNA test was not performed on the evidence an eligible offender seeks to have tested, the eligible offender must show

> that DNA exclusion when analyzed in the context of and upon consideration of all available admissible evidence related to the subject offender's case . . . would have been outcome determinative at that trial stage in that case, and, at the time of the trial stage in that case, DNA testing was not generally accepted, the results of DNA testing were not generally admissible in evidence, or DNA testing was not yet available.

R.C. 2953.74(B)(1). Additionally, the court must be able to find that all of the following apply:

> (1) The court determines pursuant to section 2953.75 of the Revised Code that biological material was collected from the crime scene or the victim of the offense for which the offender is an eligible offender and is requesting the DNA testing and

that the parent sample of that biological material against which a sample from the offender can be compared still exists at that point in time.

(2) The testing authority determines all of the following pursuant to section 2953.76 of the Revised Code regarding the parent sample of the biological material described in division (C)(1) of this section:

(a) The parent sample of the biological material so collected contains scientifically sufficient material to extract a test sample.

(b) The parent sample of the biological material so collected is not so minute or fragile as to risk destruction of the parent sample by the extraction described in division (C)(2)(a) of this section; provided that the court may determine in its discretion, on a case-by-case basis, that, even if the parent sample of the biological material so collected is so minute or fragile as to risk destruction of the parent sample by the extraction, the application should not be rejected solely on the basis of that risk.

(c) The parent sample of the biological material so collected has not degraded or been contaminated to the extent that it has become scientifically unsuitable for testing, and the parent sample otherwise has been preserved, and remains, in a condition that is scientifically suitable for testing.

(3) The court determines that, at the trial stage in the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing, the identity of the person who committed the offense was an issue.

(4) The court determines that one or more of the defense theories asserted by the offender at the trial stage in the case described in division (C)(3) of this section or in a retrial of that case in a court of this state was of such a nature that, if DNA testing is conducted and an exclusion result is obtained, the exclusion result will be outcome determinative.

(5) The court determines that, if DNA testing is conducted and an exclusion result is obtained, the results of the testing will be outcome determinative regarding that offender.

(6) The court determines pursuant to section 2953.76 of the Revised Code from the chain of custody of the parent sample of the biological material to be tested and of any test sample extracted from the parent sample, and from the totality of circumstances involved, that the parent sample and the extracted test sample are the same sample as collected and that there is no reason to believe that they have been out of state custody or have been tampered with or contaminated since they were collected.

R.C. 2953.74(C)(1)-(6). A trial court may not accept the application unless it meets all of the foregoing criteria. *State v. Lash*, 2026-Ohio-2746, ¶ 9.

{¶11} In ruling on an application for DNA testing,

> the court shall enter a judgment and order that either accepts or rejects the application and that includes within the judgment and order the reasons for the acceptance or rejection as applied to the criteria and procedures set forth in sections 2953.71 to 2953.81 of the Revised Code.

R.C. 2953.73(D). "As explained above, there are several reasons that a trial court may reject an application for postconviction DNA testing." *State v. Lash*, 2026-Ohio-2746, ¶ 13. *See also* R.C. 2953.74(B)(1) and (C)(1)-(6). "[A] trial court's order satisfies R.C. 2953.73(D)'s 'reasons' requirement when it provides a statutory reason for accepting or rejecting an application for postconviction DNA testing." *Id.* at ¶ 16. "Conversely, an order that fails to identify a specific statutory requirement that the application does not meet or that provides a reason that does not coincide with a requirement set forth in R.C. 2953.71 through 2953.81 does not meet R.C. 2953.73(D)'s 'reasons' requirement." *Id.* at ¶ 13.

{¶12} There is no dispute that Mr. Reed is an "eligible offender" because a jury convicted him of a felony, he was sentenced to prison, and he is serving his prison term. R.C. 2953.72(C)(1)(a)-(b)(i); R.C. 2953.71(F). In its amended brief in opposition to his application for DNA testing, the State argued that Mr. Reed was not entitled to relief because he could not satisfy other statutory requirements. First, the State argued that he could not satisfy R.C. 2953.74(B)(1). It argued that, at the time of his trial, DNA evidence was generally accepted, the results of DNA testing were generally admissible in evidence, and DNA testing was available. The State argued that it was unnecessary for the court to proceed further in its analysis because the requirements of R.C. 2953.74(B)(1) did not apply to Mr. Reed. Out of an abundance of caution, however, the State also addressed several of the statutory requirements set forth in R.C. 2953.74(C).

{¶13} The State argued that, while it was "difficult to discern from the record," it doubted Mr. Reed's ability to satisfy the requirements of either R.C. 2953.74(C)(3) or (4). Specifically, the State questioned whether identity had truly been an issue at Mr. Reed's trial and whether his strategy had been to question the identity of the shooter. The State also argued that Mr. Reed could not meet the requirements of R.C. 2953.74(C)(5). Specifically, it argued that a DNA exclusion result would not be outcome determinative because eyewitnesses had identified Mr. Reed as the shooter. The State also argued that numerous individuals had touched the victim's clothes when rendering medical aid, Mr. Reed had not identified any specific portion of clothing to be tested, and it would be unrealistic for the State to test every small section of the victim's clothing.

{¶14} The trial court's ruling on Mr. Reed's application for DNA testing was extremely limited. Its judgment entry only provided: "Defendant has filed an application for DNA testing. Pursuant to the arguments presented by the State, the application is denied." For the following reasons, we must conclude that its entry did not comply with the requirements of R.C. 2953.73(D).

{¶15} When ruling on an application for DNA testing, a trial court has a duty to exercise its independent judgment and cannot simply "rubberstamp[] the State's proposed findings of fact and conclusions of law . . . ." *State v. Riley*, 2024-Ohio-5712, ¶ 20. R.C. 2953.73(D) requires the court to supply reasons for its denial of an application "as applied to the criteria and procedures set forth in sections 2953.71 to 2953.81 of the Revised Code." The trial court here failed to offer any specific statutory reason for denying Mr. Reed's application. While the court referenced "the arguments presented by the State," the State presented many different arguments under distinct statutory subsections. Moreover, a court cannot satisfy its duty under R.C. 2953.73(D) by simply rubberstamping the State's argument. *Riley* at ¶ 20. Because the court's order did not identify a specific statutory requirement or provide a reason that coincided with a requirement set forth in

R.C. 2953.71, et seq., it "does not meet R.C. 2953.73(D)'s 'reasons' requirement." *Lash*, 2026-Ohio-2746, at ¶ 13. This Court, therefore, has no choice but to reverse the trial court's judgment entry and remand the matter for the trial court to independently consider Mr. Reed's application and enter a judgment that complies with R.C. 2953.73(D). *See Riley* at ¶ 20. Mr. Reed's second assignment of error is sustained on that basis.

III.

{¶16} Mr. Reed's first assignment of error is overruled, and his second assignment of error is sustained. The judgment of the Wayne County Court of Common Pleas is affirmed in part, reversed in part, and remanded for further proceedings consistent with the foregoing opinion.

Judgment affirmed in part,
reversed in part,
and cause remanded.

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 Wayne, 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 equally to both parties.

NATHAN MANNING
FOR THE COURT

SUTTON, P. J.
STEVENSON, J.
CONCUR.

APPEARANCES:

LASHAUN M. REED, pro se, Appellant.

ANGELA WYPASEK, Prosecuting Attorney, and MICHAEL J. DEFIBAUGH, Assistant Prosecuting Attorney, for Appellee.