

COURT OF APPEALS OF OHIO, NINTH JUDICIAL DISTRICT

State v. Hunter

2026-Ohio-1744 (9th Dist. 2026) · No. C.A. No. 31691 · Decided May 13, 2026

SUMMARY

The Ninth District Court of Appeals of Ohio affirmed the Summit County Court of Common Pleas’ denial of Gevonte Hunter’s fourth motion for a new trial. The court held that the trial court did not abuse its discretion in finding that newly discovered eyewitness evidence lacked credibility, did not establish a strong probability of a different result under the Petro test, and did not warrant an evidentiary hearing. The court also rejected Hunter’s claim that the trial judge was biased.

CASE DETAILS

COURT	Court of Appeals of Ohio, Ninth Judicial District
WRITING FOR THE COURT	Flagg Lanzinger, Judge; Jill Flagg Lanzinger; Hensal, J.; Sutton, J.
JURISDICTION	Ohio Court of Appeals, Ninth Judicial District
DECIDED	May 13, 2026
DOCKET	C.A. No. 31691
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gevonte Hunter appealed the Summit County Court of Common Pleas's denial, without an evidentiary hearing, of his fourth motion for a new trial based on newly discovered evidence.
STANDARD OF REVIEW	Abuse of discretion. The court applies this standard to a trial court's ruling on a motion for a new trial and to its decision whether to hold an evidentiary hearing on the motion.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Gevonte Hunter v. State of Ohio

TOPICS

- criminal procedure
- evidence
- appellate procedure
- standard of review
- post-conviction relief

PRACTICE AREAS

- Criminal procedure
- Appellate procedure
- New-trial motions
- Evidence

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying Hunter's fourth motion for a new trial without holding an evidentiary hearing.
2. Whether the trial court properly applied the Petro factors for a new trial based on newly discovered evidence.
3. Whether the trial court's credibility assessment and wording demonstrated judicial bias that deprived Hunter of due process and a fair tribunal.

HOLDINGS

1. The trial court did not abuse its discretion in assessing J.E.'s affidavit and determining that it lacked credibility. A trial court may consider the Calhoun factors and other relevant circumstances when evaluating affidavits supporting a motion for a new trial.
2. Hunter was not entitled to a new trial because J.E.'s affidavit did not disclose a strong probability that the result would change if a new trial were granted.
3. The trial court did not abuse its discretion by denying the motion for a new trial without an evidentiary hearing.
4. The trial court's credibility findings, choice of words, and legal conclusions did not demonstrate judicial bias or deprive Hunter of due process.

KEY QUOTATIONS

“To warrant the granting of a motion for a new trial in a criminal case, based on the ground of newly discovered evidence, it must be shown that the new evidence (1) discloses a strong probability that it will change the result if a new trial is granted, (2) has been discovered since the trial, (3) is such as could not in the exercise of due diligence have been discovered before the trial, (4) is material to the issues, (5) is not merely cumulative to former evidence, and (6) does not merely impeach or contradict the former evidence.” (¶ 31)

“Judicial bias is demonstrated by ‘a hostile feeling or spirit of ill will or undue friendship or favoritism toward one of the litigants or his attorney, with the formation of a fixed anticipatory judgment on the part of the judge, as contradistinguished from an open state of mind which will be governed by the law and [the] facts.’” (¶ 40)

FACTUAL BACKGROUND

Hunter was convicted for the 2011 shooting death of S.S. outside Kelley's Carryout. The State's trial evidence was circumstantial and included text messages concerning a planned robbery, evidence placing Hunter near the scene, and the discovery of Hunter's cell phone in the victim's vehicle. In support of his fourth motion for a new trial, Hunter submitted an affidavit from J.E., who claimed to have witnessed an Arab man shoot S.S. and asserted that the shooter was not Hunter. The trial court found J.E.'s delayed disclosure and explanation for remaining silent not credible and determined that the affidavit would not create a strong probability of a different result.

PROCEDURAL HISTORY

A jury convicted Hunter in 2012 of aggravated murder, aggravated robbery, murder, and four firearm specifications, and the trial court sentenced him to 33 years to life in prison. His direct appeal and earlier motions for a new trial were unsuccessful. The trial court granted leave for Hunter to file his fourth motion for a new trial in 2025, but denied the motion without an evidentiary hearing after finding the supporting eyewitness affidavit not credible and concluding that the evidence did not establish a strong probability of a different result. The Ninth District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hunter, 2024-Ohio-4658 (9th Dist.)
- State v. Hunter, 2014-Ohio-910 (9th Dist.)
- State v. Hunter, 2021-Ohio-2020 (9th Dist.)
- State v. Kilgore, 2025-Ohio-593 (9th Dist.)
- Blakemore v. Blakemore, 5 Ohio St.3d 217, 219 (1983)
- Pons v. Ohio State Med. Bd., 66 Ohio St.3d 619, 621 (1993)
- State v. Calhoun, 86 Ohio St.3d 279, 284-285 (1999)
- State v. Davis, 2023-Ohio-1657, ¶¶ 44-45 (9th Dist.)
- State v. Lacy, 2018-Ohio-3249, ¶ 15 (11th Dist.)
- State v. Bressi, 2020-Ohio-4, ¶ 26 (9th Dist.)
- State v. Prade, 2018-Ohio-3551, ¶ 41 (9th Dist.)
- State v. Petro, 148 Ohio St. 505 (1947)
- State v. Carter, 2024-Ohio-5193, ¶ 31 (9th Dist.)
- King v. Divoky, 2021-Ohio-1712, ¶¶ 43-48 (9th Dist.)
- State v. Loudermilk, 2017-Ohio-7378, ¶ 17 (1st Dist.)
- State v. Jackson, 2016-Ohio-5488, ¶ 33
- In re Disqualification of George, 2003-Ohio-5489, ¶ 5