

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, MUSKINGUM
COUNTY

State v. Harris

2023-Ohio-3705 (Ohio Ct. App. 2023) · No. CT2023-0040 · Decided October 6, 2023

SUMMARY

The Ohio Fifth District Court of Appeals affirmed the Muskingum County Court of Common Pleas’ denial of Terry Harris’s motion for discovery and transcripts. The court held that discovery is not available at the initial stage of post-conviction proceedings and that Harris was not entitled to a second transcript at state expense after receiving one for his direct appeal.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Muskingum County
WRITING FOR THE COURT	Patricia A. Delaney, J.; John W. Wise, P.J.; Craig R. Baldwin, J.
JURISDICTION	Ohio
DECIDED	October 6, 2023
DOCKET	CT2023-0040
DISPOSITION	affirmed
PROCEDURAL POSTURE	Harris appealed the denial of his pro se motion for discovery and transcripts, which he sought for possible postconviction proceedings.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Published and precedential Ohio Court of Appeals opinion
PARTIES	Terry Harris v. State of Ohio

TOPICS

- post-conviction relief
- discovery criminal
- appellate procedure
- criminal procedure

PRACTICE AREAS

- criminal procedure
- postconviction relief
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court had authority to order discovery at the initial stage of a possible postconviction proceeding.
2. Whether Harris was entitled to a second transcript at state expense after already receiving one transcript for his direct appeal.

HOLDINGS

1. The trial court lacked authority to order discovery because Ohio law does not make discovery available in the initial stages of a postconviction proceeding and the power to conduct and compel such discovery is not included within the trial court's statutorily defined authority.
2. An indigent defendant is entitled to one transcript for the entire judicial system, but not to a second transcript sent to the defendant in prison for use in prospective postconviction proceedings when the defendant has already received a transcript for the direct appeal.

KEY QUOTATIONS

“Ohio law is clear that discovery is not available in the initial stages of a postconviction proceeding.” (¶ 10)

“the duty to provide a transcript at State expense extends only to providing one transcript for the entire judicial system. It does not extend to sending the transcript to the indigent person in prison.” (¶ 11)

FACTUAL BACKGROUND

Harris entered guilty pleas to multiple counts of possession and trafficking of narcotics in 2017 and was sentenced to an aggregate prison term of nineteen years. His convictions and sentence were affirmed on direct appeal, and he was provided one transcript at state expense for that appeal. After medical issues and hospitalizations allegedly caused documents in his possession to be lost or destroyed, Harris filed a motion for discovery and transcripts to assist with possible postconviction proceedings.

PROCEDURAL HISTORY

Harris pleaded guilty to multiple narcotics-possession and trafficking counts in 2017 and received an aggregate nineteen-year prison sentence. The court affirmed his convictions and sentence on direct appeal. In 2023, he moved for discovery and transcripts, the trial court denied the motion, and the Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Harris, 5th Dist. Muskingum No. CT2018-0005, 2018-Ohio-2257
- State v. Dean, 149 Ohio App. 3d 93, 2002-Ohio-4203, 776 N.E.2d 116, ¶ 10
- State v. Mason, 5th Dist. Ashland No. 01COA01423, 2001 WL 1913877 (Oct. 3, 2001)
- State v. Curtis, 5th Dist. Muskingum No. CT2018-0014, 2018-Ohio-2822, ¶ 42

- State ex rel. Love v. Cuyahoga County Prosecutor's Office, 86 Ohio St. 3d 279, 281, 714 N.E.2d 905, 1999-Ohio-102
- State v. Hewitt, 5th Dist. Stark No. 2016CA00067, 2016-Ohio-5762, ¶¶ 17-18
- State ex rel. Mramor v. Court of Common Pleas, 8th Dist. Cuyahoga No. 73406, 1997 WL 797796, *1 (Dec. 31, 1997)
- State ex rel. Murr v. Thierry, 34 Ohio St. 3d 45, 45-46, 517 N.E.2d 226 (1987)
- State v. Brown, 5th Dist. Licking No. 01CA49, 2001 WL 1772934, *1-2 (June 21, 2001)
- State v. Kale, 5th Dist. Licking No. 98CA49, 1999 WL 3974, *1-2 (Dec. 7, 1998)

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