

COURT OF APPEALS OF OHIO, FOURTH APPELLATE DISTRICT, HOCKING COUNTY

State v. Stevens

2026-Ohio-636 · No. 24CA6 · Decided February 17, 2026

SUMMARY

The Ohio Fourth District Court of Appeals affirmed the denial, without an evidentiary hearing, of Gerald D. Stevens’s petition for postconviction relief. The court held that the trial court applied the proper standards under R.C. 2953.21 and State v. Bunch, and that res judicata barred Stevens’s claims concerning alleged false testimony, prosecutorial and witness misconduct, and ineffective assistance of trial counsel. The court also concluded that, even absent res judicata, Stevens failed to establish substantive grounds for relief.

CASE DETAILS

COURT	Court of Appeals of Ohio, Fourth Appellate District, Hocking County
WRITING FOR THE COURT	Jason P. Smith, Presiding Judge; Hess, Judge; Wilkin, Judge
JURISDICTION	Ohio Court of Appeals, Fourth Appellate District, Hocking County
DECIDED	February 17, 2026
DOCKET	24CA6
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the Hocking County Court of Common Pleas' denial of his petition for postconviction relief without an evidentiary hearing.
STANDARD OF REVIEW	A decision to grant or deny postconviction relief, including whether to hold a hearing, is reviewed for abuse of discretion. Whether the trial court applied the correct legal standard is reviewed de novo. An abuse of discretion requires an unreasonable, arbitrary, or unconscionable decision.
PRECEDENTIAL VALUE	published
PARTIES	Gerald D. Stevens v. State of Ohio

TOPICS

state post-conviction relief

ineffective assistance

criminal procedure

appellate procedure

standard of review

PRACTICE AREAS

criminal law

postconviction relief

criminal procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether Stevens's postconviction petition was timely under R.C. 2953.21(A)(2).
2. Whether res judicata barred Stevens's claims of prosecutorial misconduct, witness misconduct, and ineffective assistance of trial counsel.
3. Whether the petition and supporting materials established substantive grounds for postconviction relief requiring an evidentiary hearing under R.C. 2953.21(D) and (F).
4. Whether trial counsel was ineffective for declining to impeach Myers with his prior recorded statement.

HOLDINGS

1. The petition was timely because the trial transcripts were objectively necessary for inclusion in the appellate record, and the 365-day filing period began when the supplemental transcripts were filed on February 7, 2022. The petition filed on February 3, 2023, was filed within 365 days.
2. Res judicata barred Stevens's prosecutorial-misconduct, witness-misconduct, and ineffective-assistance claims because the claims could have been litigated on direct appeal based on the trial record and the evidence offered in postconviction proceedings did not qualify for an exception.
3. The trial court did not abuse its discretion by denying the petition without a hearing because the petition and supporting affidavit did not establish sufficient operative facts constituting substantive grounds for relief.
4. Stevens did not establish ineffective assistance because counsel's decision not to impeach Myers with the recorded interview was a debatable strategic choice, and the alleged omission did not create a reasonable probability of a different trial outcome.

KEY QUOTATIONS

“Postconviction relief, although designed to remedy alleged constitutional violations, operates as a civil collateral attack on a criminal judgment - - not as a second appeal.” (¶ 8)

“To obtain a hearing on his postconviction petition, an appellant does not need to definitively establish trial counsel's deficiency or resulting prejudice.” (¶ 40)

FACTUAL BACKGROUND

Stevens was convicted of participating as the alleged mastermind in a burglary of his cousin Robbie Davis's residence, where money and firearms were taken from a safe. The State's principal witness, Jeremy Myers, testified that he overheard Stevens plan the burglary in Stevens's garage. In a recorded 2019 interview, however,

Myers stated that he had not heard what Stevens said and knew details from another participant. Stevens's postconviction petition alleged prosecutorial and witness misconduct based on allegedly false testimony and ineffective assistance because trial counsel did not impeach Myers with the recorded statement.

PROCEDURAL HISTORY

Stevens was convicted in 2021 of two counts of burglary and one count of grand theft, with firearm specifications, and received an aggregate prison term of six years and six months. The court of appeals affirmed his convictions on direct appeal in *State v. Stevens*, 2023-Ohio-3280, and the Supreme Court of Ohio declined jurisdiction. Stevens filed a postconviction petition on February 3, 2023; the trial court denied it without a hearing on May 20, 2024. The court of appeals affirmed, holding that the petition was timely but that res judicata barred the claims and, alternatively, that the petition did not establish substantive grounds for relief requiring a hearing.

DISPOSITION

affirmed

CASES CITED

- *State v. Stevens*, 2023-Ohio-3280
- *State v. Stevens*, 2024-Ohio-1228
- *State v. Stevens*, 2024-Ohio-3313
- *State v. Morrison*, 2025-Ohio-4937
- *State v. Howard*, 2025-Ohio-4718
- *State v. Calhoun*, 86 Ohio St.3d 279, 281 (1999)
- *State v. Steffen*, 70 Ohio St.3d 399, 410 (1994)
- *State v. Jackson*, 64 Ohio St.2d 107, 110 (1980)
- *State v. Vanpernis*, 2025-Ohio-365
- *State v. Hatton*, 2022-Ohio-3991
- *State v. Kyles*, 2024-Ohio-998
- *Brand v. Ogle*, 2020-Ohio-3219
- *Strickland v. Washington*, 466 U.S. 668 (1984)
- *State v. Lytle*, 48 Ohio St.2d 391 (1976)
- *State v. Bradley*, 42 Ohio St.3d 136 (1989)
- *State v. Johnson*, 2025-Ohio-3137
- *State v. Monaco*, 2024-Ohio-535
- *State v. Bunch*, 2022-Ohio-4723
- *State v. Milanovich*, 42 Ohio St.2d 46 (1975)
- *State v. Adams*, 2017-Ohio-519
- *State v. Blanton*, 2022-Ohio-3985

- State v. Perry, 10 Ohio St.2d 175, 226 N.E.2d 104 (1967)
- State v. Cole, 2 Ohio St.3d 112, 443 N.E.2d 169 (1982)
- State v. Shamblin, 2025-Ohio-2760
- State v. Gregory, 2024-Ohio-5420
- State v. Lawson, 103 Ohio App.3d 307, 315 (12th Dist. 1995)
- State v. Everette, 2011-Ohio-2856
- State v. Barker, 2016-Ohio-8476
- State v. Chavis-Tucker, 2006-Ohio-3105
- State v. Durham, 2012-Ohio-4165
- State v. Rice, 2011-Ohio-3746
- State v. Carver, 2022-Ohio-2653
- State v. Craig, 2022-Ohio-2976
- State v. Jackson, 2002-Ohio-3330
- State v. Cunningham, 2004-Ohio-5892
- State v. Seal, 2014-Ohio-5415
- State v. Vulgamore, 2021-Ohio-3147
- State v. Guysinger, 2017-Ohio-1167
- State v. Leonard, 2004-Ohio-6235
- State v. Dorsey, 2005-Ohio-2334
- State v. Allah, 2015-Ohio-5060
- Grimes v. Grimes, 2012-Ohio-3562
- State v. Soto, 2025-Ohio-4517
- State v. Ross, 2024-Ohio-6076
- Ward v. Ross, 2025-Ohio-442
- State v. Kempton, 2018-Ohio-928