

SUPREME COURT OF OHIO

State ex rel. White v. Richard

State ex rel. White v. Richard (Slip Opinion), 2018 Ohio 2696 (Ohio 2018) · No. 2018-1326 · Decided July 11, 2018

SUMMARY

The Supreme Court of Ohio dismissed Gregory White’s appeal from the dismissal of his habeas corpus petition as untimely. The court held that White’s application for reconsideration in the court of appeals was a nullity and did not toll the time for filing an appeal.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; O'Connor, C.J.; Kennedy, J.; French, J.; Fischer, J.; DeWine, J.; Degenaro, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	July 11, 2018
DOCKET	2018-1326
DISPOSITION	dismissed
PROCEDURAL POSTURE	Direct appeal from the Twelfth District Court of Appeals' dismissal of a state prisoner's habeas corpus petition and denial of his application for reconsideration.
STANDARD OF REVIEW	Jurisdictional review of the timeliness and appealability of the attempted appeal.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; precedential.
PARTIES	Gregory White v. Rhonda Richard, Warden, other appellees

TOPICS

- appellate jurisdiction
- appellate procedure
- final judgment rule
- state post-conviction relief
- civil procedure

PRACTICE AREAS

- appellate procedure
- state habeas corpus
- post-conviction relief
- civil procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court of Ohio had jurisdiction over White's appeal when his notice of appeal from the court of appeals' dismissal was filed after the jurisdictional deadline.
2. Whether White's application for reconsideration in the court of appeals was valid and tolled the time for filing a jurisdictional appeal.

HOLDINGS

1. The appeal was untimely because White filed his notice of appeal after the deadline prescribed by the Supreme Court of Ohio's rules; the Supreme Court therefore lacked jurisdiction and dismissed the appeal.
2. An application for reconsideration of a final judgment in an original civil action in the court of appeals is a nullity and does not toll the time for filing a jurisdictional appeal.

KEY QUOTATIONS

“This means that White’s application for reconsideration is a nullity, as is the court of appeals’ judgment denying that application.” (¶ 7)

“Therefore, White’s application for reconsideration cannot cure the untimeliness of his appeal.” (¶ 7)

FACTUAL BACKGROUND

White, an Ohio state prisoner serving sentences for multiple felony convictions, alleged that his sentences were concurrent and that his maximum sentence expired in June 2014. He filed a habeas corpus petition in the court of appeals but did not attach commitment papers relating to his parole grants, revocations, or terminations. The court of appeals dismissed the petition and later denied White's application for reconsideration.

PROCEDURAL HISTORY

White filed a habeas corpus petition in the Twelfth District Court of Appeals alleging that his sentences should run concurrently and that his maximum sentence had expired. The court dismissed the petition because he failed to attach required commitment papers, then denied his application for reconsideration. White attempted to appeal both decisions to the Supreme Court of Ohio, but his notice of appeal was filed after the jurisdictional deadline.

DISPOSITION

dismissed

CASES CITED

- *Fuqua v. Williams*, 100 Ohio St. 3d 211, 2003-Ohio-5533, 797 N.E.2d 982, ¶ 7
- *State ex rel. Pendell v. Adams Cty. Bd. of Elections*, 40 Ohio St. 3d 58, 60, 531 N.E.2d 713 (1988)
- *Pitts v. Dept. of Transp.*, 67 Ohio St. 2d 378, 423 N.E.2d 1105 (1981)