

COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT

State v. McGee

2026-Ohio-1851 · No. 25AP-625 · Decided May 21, 2026

SUMMARY

The Tenth District Court of Appeals of Ohio affirmed the Franklin County Court of Common Pleas order denying William D. McGee’s motion for resentencing. The court held that the motion was subject to the requirements for an untimely postconviction petition and that McGee failed to establish a qualifying new fact or retroactive constitutional right. The court also concluded that McGee’s double-jeopardy, equal-protection, and ineffective-assistance arguments failed, and that res judicata barred claims that could have been raised on direct appeal.

CASE DETAILS

COURT	Court of Appeals of Ohio, Tenth Appellate District
WRITING FOR THE COURT	Jamison, J.; Leland, J.; Dingus, J.
JURISDICTION	Ohio Court of Appeals, Tenth Appellate District
DECIDED	May 21, 2026
DOCKET	25AP-625
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the Franklin County Court of Common Pleas' denial of his motion for resentencing. The appellate court granted delayed appeal after initially dismissing his first appeal as untimely.
STANDARD OF REVIEW	The court reviews a trial court's ruling on a postconviction petition for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	William D. McGee v. State of Ohio

TOPICS

- post-conviction relief
- sentencing
- criminal procedure
- double jeopardy
- ineffective assistance

PRACTICE AREAS

- criminal procedure
- postconviction relief
- sentencing
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether McGee's post-appeal motion for resentencing constituted an untimely petition for postconviction relief and, if so, whether he satisfied the statutory exceptions for an untimely petition.
2. Whether consecutive sentences for firearm specifications violated the Double Jeopardy Clause or Ohio's allied-offenses statutes.
3. Whether McGee established an equal-protection violation.
4. Whether trial counsel was ineffective for failing to object to the firearm-specification sentences.
5. Whether res judicata barred McGee's sentencing and constitutional challenges because they were raised or could have been raised on direct appeal.

HOLDINGS

1. A post-appeal motion seeking correction or vacation of a sentence on constitutional grounds is treated as a petition for postconviction relief. Because McGee filed his motion nearly two years after completion of his direct appeal, it was subject to the requirements for an untimely postconviction petition, and he failed to establish any statutory exception permitting review.
2. The imposition of consecutive sentences for firearm specifications did not violate double jeopardy because firearm specifications are sentencing enhancements rather than separate criminal offenses.
3. McGee failed to establish an equal-protection claim because he did not present an argument explaining how similarly situated persons were treated differently.
4. McGee failed to establish ineffective assistance of counsel because he showed neither deficient performance nor prejudice from counsel's failure to object to consecutive firearm-specification sentences.
5. Res judicata barred McGee's postconviction challenge to the firearm-specification sentences because the asserted constitutional and sentencing errors were raised or could have been raised on direct appeal.

KEY QUOTATIONS

“If a criminal defendant files a post-appeal motion “ ‘seeking vacation or correction of his or her sentence on the basis that his or her constitutional rights have been violated, such a motion is a petition for postconviction relief as defined in R.C. 2953.21.’ ” ” (¶ 8)

“A specification is a sentencing enhancement, not a separate criminal offense.” (¶ 12)

“Under the doctrine of res judicata, a final judgment of conviction bars a convicted defendant who was represented by counsel from raising and litigating in any proceeding except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at the trial, which resulted in that judgment or conviction, or on an appeal from that judgment.” (¶ 17)

FACTUAL BACKGROUND

McGee was convicted after a jury trial on three counts involving firearms and specifications, while the trial court decided the weapons-under-disability count. The trial court imposed consecutive three-year terms for three

firearm specifications, in addition to sentences on the underlying offenses, for a total sentence of 17 years. Nearly two years after completion of his direct appeal, McGee sought resentencing, asserting constitutional violations, improper consecutive sentences for firearm specifications, and ineffective assistance of counsel.

PROCEDURAL HISTORY

McGee was convicted in 2021 of felonious assault, improperly discharging a firearm at or into a habitation or school safety zone, having weapons while under disability, and related firearm specifications, and received a 17-year sentence. The convictions and sentence were affirmed on direct appeal, reconsideration was denied, and the Supreme Court of Ohio declined jurisdiction. McGee later filed a motion for resentencing, which the trial court denied; after an initial untimely appeal was dismissed, the appellate court granted delayed appeal and reviewed the denial.

DISPOSITION

affirmed

CASES CITED

- State v. Parker, State v. Parker, 2019-Ohio-3848, ¶ 16
- State v. Reynolds, 1997-Ohio-304, ¶ 12
- State v. Weaver, 2022-Ohio-4371, ¶ 24
- State v. Beatty, 2024-Ohio-5684
- North Carolina v. Pearce, 395 U.S. 711, 717 (1969)
- United States v. Halper, 490 U.S. 435, 440 (1989)
- Missouri v. Hunter, 459 U.S. 359 (1983)
- State v. Ford, 2011-Ohio-765, ¶¶ 16-19
- State v. Logan, 2025-Ohio-1772, ¶¶ 9-12
- State v. Brefford, 2025-Ohio-4436, ¶ 115
- Nordlinger v. Hahn, 505 U.S. 1, 10 (1992)
- Jabr v. Burger King, 2022-Ohio-773, ¶¶ 9-10
- Columbus v. Wynn, 2021-Ohio-3934, ¶ 7
- State ex rel. Karmasu v. Tate, 83 Ohio App.3d 199, 206 (4th Dist. 1992)
- Strickland v. Washington, 466 U.S. 668, 686-89 (1984)
- Michel v. Louisiana, 350 U.S. 91, 101 (1955)
- State v. Bradley, 42 Ohio St.3d 136 (1989)
- State v. Mohamed, 2017-Ohio-7468, ¶ 18
- State v. Clayton, 62 Ohio St.2d 45, 49 (1980)
- State v. Cole, 2 Ohio St.3d 112, 113 (1982)
- State v. Perry, 10 Ohio St.2d 175 (1967)
- State v. Elkins, 2023-Ohio-4521, ¶ 15

- State v. McGee, 2023-Ohio-2935 (10th Dist.)

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