

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, CLARK COUNTY

State v. Jennings

2026-Ohio-1679 · No. 2025-CA-60 · Decided May 8, 2026

SUMMARY

The Ohio Second District Court of Appeals affirmed the denial of Kirk P. Jennings II’s motion to vacate his sentence. The court held that Jennings’s claims concerning the merger of allied offenses and firearm specifications were barred by res judicata because they could have been raised in his direct appeal.

CASE DETAILS

COURT	Court of Appeals of Ohio, Second Appellate District, Clark County
WRITING FOR THE COURT	Robert G. Hanseman, J.; Lewis, P.J.; Tucker, J.
JURISDICTION	Ohio Court of Appeals, Second Appellate District, Clark County
DECIDED	May 8, 2026
DOCKET	2025-CA-60
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jennings appealed from the Clark County Common Pleas Court's denial of his pro se motion to vacate sentence.
STANDARD OF REVIEW	The appellate court reviewed the trial court's denial of the motion to vacate sentence and determined whether res judicata barred the merger claims.
PRECEDENTIAL VALUE	Published opinion; precedential value under Ohio law is not otherwise specified in the opinion.
PARTIES	Kirk P. Jennings II v. State of Ohio

TOPICS

- post-conviction relief
- sentencing
- criminal procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- sentencing
- appellate procedure

QUESTIONS PRESENTED

1. Whether Jennings's post-conviction motion to vacate sentence could raise allied-offense merger claims that were not raised on direct appeal.
2. Whether res judicata barred Jennings's claims concerning merger of firearm specifications.

HOLDINGS

1. Res judicata barred Jennings from raising the allied-offense merger claims because he could have raised them in his direct appeal from the convictions but did not.
2. Res judicata also barred Jennings's claims concerning merger of the firearm specifications because those claims could have been raised on direct appeal.

KEY QUOTATIONS

“Under the doctrine of res judicata, a final judgment of conviction bars the convicted defendant 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 of conviction or on an appeal from that judgment.” (¶ 9)

“We have consistently held that a defendant must raise the merger of allied offenses of similar import on direct appeal or it is barred by res judicata.” (¶ 10)

FACTUAL BACKGROUND

Jennings was convicted after a 1995 jury trial of aggravated burglary, kidnapping, having weapons while under disability, and two counts of felonious assault, each of the latter offenses carrying firearm specifications. The trial court imposed consecutive prison terms and did not merge the offenses, although it merged certain firearm specifications. Nearly thirty years later, Jennings sought to vacate his sentence, arguing that the offenses and specifications arose from a single transaction and should have merged.

PROCEDURAL HISTORY

Jennings was convicted in 1995 of aggravated burglary, kidnapping, having weapons while under disability, and two counts of felonious assault, with firearm specifications, and received consecutive sentences. His direct appeal was unsuccessful. After unsuccessful motions for judicial release and sentence review, he filed a 2025 motion to vacate sentence asserting that the offenses and firearm specifications should have merged. The trial court denied the motion as barred by res judicata, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Jennings, 1996 WL 27850 (2d Dist. Jan. 24, 1996)
- State v. Perry, 10 Ohio St.2d 175, 180 (1967)

- State v. Frazier, 2021-Ohio-4155, ¶ 14 (2d Dist.)
- State v. Miller, 2021-Ohio-232, ¶ 21 (2d Dist.)
- State v. Saxon, 2006-Ohio-1245, ¶¶ 15, 18
- State v. Taylor, 2019-Ohio-1376, ¶¶ 21-22 (2d Dist.)
- State v. Perkins, 2016-Ohio-4581, ¶ 7 (2d Dist.)
- State v. Fletcher, 2026-Ohio-669, ¶ 10 (2d Dist.)
- State v. Baldwin, 2016-Ohio-5476, ¶ 22 (12th Dist.)
- State ex rel. Rodriguez v. Barker, 2019-Ohio-4155, ¶ 14
- State v. Beal, 2016-Ohio-3271, ¶¶ 21-22 (2d Dist.)
- State v. Orr, 2014-Ohio-501, ¶ 7 (8th Dist.)

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