

OHIO COURT OF APPEALS, TENTH APPELLATE DISTRICT

State v. Gordon

2026-Ohio-1820 · No. 24AP-196 · Decided May 19, 2026

SUMMARY

The Ohio Tenth District Court of Appeals affirmed the Franklin County Court of Common Pleas’ denial of Michael L. Gordon’s untimely and successive petitions for postconviction relief. The court held that Gordon failed to establish an exception under R.C. 2953.23(A)(1)(a) and that his claims were also barred by res judicata.

CASE DETAILS

COURT	Ohio Court of Appeals, Tenth Appellate District
WRITING FOR THE COURT	Dorrian, J.; Boggs, P.J.; Mentel, J.
JURISDICTION	Ohio Court of Appeals, Tenth Appellate District
DECIDED	May 19, 2026
DOCKET	24AP-196
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gordon appealed the Franklin County Court of Common Pleas judgment denying his November 7 and December 7, 2023 requests, construed as petitions for postconviction relief.
STANDARD OF REVIEW	De novo review applies to whether a trial court has jurisdiction to entertain an untimely and successive petition for postconviction relief.
PRECEDENTIAL VALUE	Published
PARTIES	Michael L. Gordon v. State of Ohio

TOPICS

- state post-conviction relief
- successive petitions
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal law
- postconviction relief
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court had subject-matter jurisdiction to consider Gordon's untimely and successive postconviction-relief petitions.
2. Whether Gordon demonstrated an exception under R.C. 2953.23(A)(1)(a) based on newly discovered facts or a newly recognized retroactive right.
3. Whether res judicata independently barred Gordon's claims.

HOLDINGS

1. The trial court lacked jurisdiction to entertain Gordon's untimely and successive postconviction-relief petitions because he failed to establish a statutory exception permitting their consideration.
2. Even assuming the trial court possessed jurisdiction, res judicata barred Gordon's arguments because the asserted issues were raised or could have been raised at trial or on direct appeal.
3. The trial court did not err by dismissing Gordon's postconviction-relief petition without holding a hearing.

KEY QUOTATIONS

“An untimely petition is only allowed if a petitioner first demonstrates that (1) he was unavoidably prevented from discovering facts required for a claim for relief or (2) the United States Supreme Court has recognized a new right that retroactively applies to the petitioner.” (¶ 10)

“Because Gordon failed to demonstrate his entitlement to an exception that would allow the trial court to consider his untimely postconviction relief petition, the trial court did not possess jurisdiction to entertain the petition and did not err in dismissing Gordon’s petition without a hearing.” (¶ 15)

FACTUAL BACKGROUND

After a mistrial in his first jury trial, Gordon was convicted in a second trial beginning February 11, 2003, of felonious assault, kidnapping, and two counts of involuntary manslaughter. He received an aggregate 28-year prison sentence, and the conviction was affirmed on direct appeal in 2004. In 2023 and 2024, Gordon sought relief based on alleged newly discovered evidence concerning a proffer agreement and a promise by federal prosecutors to recommend reducing his state sentence.

PROCEDURAL HISTORY

Gordon was convicted after a second jury trial and received an aggregate 28-year prison sentence. His direct appeal was affirmed in 2004, and he subsequently filed multiple unsuccessful postconviction petitions and motions. The trial court denied the motions at issue for lack of jurisdiction under R.C. 2953.23(A)(1)(a) and alternatively concluded that several requests were barred by res judicata. The Tenth District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Gordon, 24AP-196, at ¶ 4 (10th Dist. Aug. 12, 2025) (memorandum decision)
- State v. Gordon, 2004-Ohio-2644 (10th Dist.)
- State v. Gordon, 2009-Ohio-1330 (10th Dist.)
- State v. Gordon, 2023-Ohio-2314 (10th Dist.)
- State v. Gordon, 2025-Ohio-1237 (10th Dist.)
- State v. Gordon, 2025-Ohio-2994 (10th Dist.)
- State v. Kane, 2017-Ohio-7838 (10th Dist.)
- State v. Calhoun, 1999-Ohio-102
- State v. Sidibeh, 2013-Ohio-2309, ¶ 8 (10th Dist.)
- State v. Murphy, 2000 Ohio App. LEXIS 6129, *5 (10th Dist. Dec. 26, 2000)
- State v. Harris, 2008-Ohio-2837, ¶ 7
- State v. Johnson, 2024-Ohio-134, ¶ 10
- State v. Gordon, 2024-Ohio-530 (10th Dist.)
- State v. Goodrich, 2024-Ohio-5336
- State v. Apanovitch, 2018-Ohio-4744
- State v. Burke, 2002-Ohio-6840 (10th Dist.)
- State v. C.W., 2023-Ohio-4393 (10th Dist.)