

OHIO COURT OF APPEALS, SIXTH APPELLATE DISTRICT, LUCAS COUNTY

State v. Kenney

2025-Ohio-5754 · No. L-25-00134 · Decided December 23, 2025

SUMMARY

The Sixth District Court of Appeals of Ohio affirmed the denial of Maurice D. Kenney’s motion to vacate his judgment, which the trial court properly treated as an untimely petition for postconviction relief. The court held that Kenney failed to demonstrate that he was unavoidably prevented from discovering the facts supporting his claims, and therefore the trial court lacked jurisdiction to consider the petition’s merits; his remaining assignments of error were moot.

CASE DETAILS

COURT	Ohio Court of Appeals, Sixth Appellate District, Lucas County
WRITING FOR THE COURT	Myron C. Duhart, J.; Christine E. Mayle, J.; Charles E. Sulek, P.J.
JURISDICTION	Ohio Court of Appeals, Sixth Appellate District, Lucas County
DECIDED	December 23, 2025
DOCKET	L-25-00134
DISPOSITION	affirmed
PROCEDURAL POSTURE	Kenney appealed from the Lucas County Court of Common Pleas judgment denying his motion to vacate a void judgment, which the trial court characterized as a petition for postconviction relief.
PRECEDENTIAL VALUE	published
PARTIES	Maurice D. Kenney v. State of Ohio

TOPICS

- state post-conviction relief
- post-conviction relief
- appellate procedure
- criminal procedure
- due process

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- appellate procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether Kenney's post-judgment motion to vacate a void judgment was properly treated as a petition for postconviction relief.
2. Whether the untimely postconviction petition satisfied the statutory requirements for a delayed petition under R.C. 2953.23(A)(1).
3. Whether arguments concerning carrying a concealed weapon, a no-contest plea, insufficient evidence, and ineffective assistance were properly before the appellate court when they were not decided by the trial court.

HOLDINGS

1. A motion to vacate filed after the time for a direct appeal has expired is properly recast as a petition for postconviction relief.
2. An untimely petition for postconviction relief may be considered only if the petitioner satisfies both requirements in R.C. 2953.23(A)(1): unavoidable prevention from discovering the supporting facts and clear and convincing evidence that, absent constitutional error, no reasonable factfinder would have found the petitioner guilty.
3. An appellate court limits its review to issues actually decided by the trial court; issues not presented to or decided by the trial court are not properly before the appellate court.

KEY QUOTATIONS

“With the exception of an appeal, a petition for postconviction relief is ‘the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case.’” (¶ 10)

“‘[A] petitioner’s failure to satisfy R.C. 2953.23(A) deprives a trial court of jurisdiction to adjudicate the merits of an untimely . . . postconviction petition.’” (¶ 12)

FACTUAL BACKGROUND

Kenney was originally indicted in 2016 for murder with a firearm specification and tampering with evidence. In 2017, he waived prosecution by indictment, entered Alford guilty pleas to tampering with evidence, involuntary manslaughter with a firearm specification, and having weapons while under disability, and was sentenced to 18 years in prison. In 2025, he sought to vacate the sentence for having weapons while under disability, asserting that there was no valid indictment for that offense, but he did not show that he was unavoidably prevented from discovering the facts supporting his claim.

PROCEDURAL HISTORY

Kenney pleaded guilty pursuant to North Carolina v. Alford to tampering with evidence, involuntary manslaughter with a firearm specification, and having weapons while under disability, and received an aggregate 18-year prison sentence. After two unsuccessful attempts to obtain a delayed direct appeal, he filed a 2025 motion seeking to vacate the sentence on the weapons-under-disability count. The trial court treated the motion as an untimely petition for postconviction relief, denied it on jurisdictional, merits, and res judicata grounds, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- North Carolina v. Alford, 400 U.S. 25 (1970)
- State v. Parker, State v. Parker, 2019-Ohio-3848, ¶¶ 15, 17
- State v. Apanovitch, 2018-Ohio-4744, ¶ 36
- Lycan v. Cleveland, 2016-Ohio-422, ¶ 21
- Bowen v. Kil-Kare, Inc., 63 Ohio St.3d 84, 89 (1992)

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