

COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT, ALLEN COUNTY

State v. Liles

2022-Ohio-1713 (Ohio Ct. App. 2022) · No. 1-21-60 · Decided May 23, 2022

SUMMARY

The Ohio Third District Court of Appeals affirmed the dismissal of Demond Liles’s successive petition for postconviction relief. The court held that Liles could not satisfy the jurisdictional requirements of Ohio Revised Code 2953.23, including the requirement to show that, absent constitutional error at trial, no reasonable factfinder would have found him guilty, because he was convicted pursuant to a guilty plea. The court also rejected Liles’s constitutional challenge to Ohio’s postconviction procedures.

CASE DETAILS

COURT	Court of Appeals of Ohio, Third Appellate District, Allen County
WRITING FOR THE COURT	Shaw, J.; Zimmerman, P.J.; Miller, J.
JURISDICTION	Ohio
DECIDED	May 23, 2022
DOCKET	1-21-60
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal, for lack of jurisdiction, of an untimely successive petition for postconviction relief.
STANDARD OF REVIEW	De novo review of whether the trial court had subject-matter jurisdiction to entertain a successive postconviction petition.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals decision; binding within the Third Appellate District to the extent consistent with controlling Ohio Supreme Court authority.
PARTIES	Demond Liles v. State of Ohio

TOPICS

- state post-conviction relief
- successive petitions
- criminal procedure
- appellate procedure
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court had jurisdiction under R.C. 2953.23 to entertain Liles's untimely successive postconviction petition.
2. Whether Liles could satisfy the requirement of R.C. 2953.23(A)(1)(b) when his convictions resulted from guilty pleas rather than a trial.
3. Whether Liles was unavoidably prevented from discovering the facts supporting his successive petition under R.C. 2953.23(A)(1)(a).
4. Whether Ohio's postconviction-relief procedures, including the absence of discovery at the initial stage and the statutory pleading requirements, are constitutionally inadequate.

HOLDINGS

1. A trial court lacks jurisdiction to consider an untimely or successive postconviction petition unless the petitioner satisfies the applicable requirements of R.C. 2953.23(A)(1) or (A)(2). Because Liles could not satisfy R.C. 2953.23(A)(1)(b), dismissal for lack of jurisdiction was proper.
2. A petitioner whose conviction resulted from a guilty plea cannot satisfy R.C. 2953.23(A)(1)(b)'s requirement to show that, but for constitutional error at trial, no reasonable factfinder would have found the petitioner guilty.
3. Even assuming Liles could establish that he was unavoidably prevented from discovering the documents on which he relied, he still could not satisfy R.C. 2953.23(A)(1)(b); therefore, the successive petition remained jurisdictionally barred.
4. Ohio's postconviction-relief procedures are not rendered unconstitutional by the absence of discovery during the initial postconviction stage or by the statutory pleading requirements at issue.

KEY QUOTATIONS

“Unless the petitioner establishes the showings required by R.C. 2953.23(A), the trial court lacks jurisdiction to consider a successive petition for postconviction relief.” (¶ 6)

*“State collateral review itself is not a constitutional right. * * * Further, a postconviction proceeding is not an appeal of a criminal conviction but, rather, a collateral civil attack on the judgment.”* (¶ 21)

FACTUAL BACKGROUND

Liles pleaded guilty to four counts of trafficking in cocaine and related specifications and was sentenced to an aggregate term of twenty-five years. He later filed a successive postconviction petition based on alleged newly discovered evidence concerning former Allen County Sheriff Samuel Crish and alleged ineffective assistance of counsel. Because Liles was convicted by guilty plea rather than after a trial, the court concluded that he could not satisfy the statutory requirement that, but for constitutional error at trial, no reasonable factfinder would have found him guilty.

PROCEDURAL HISTORY

Liles pleaded guilty in 2014 to four cocaine-trafficking counts and specifications and received an aggregate twenty-five-year prison sentence. His direct appeal and first postconviction petition were unsuccessful. In July 2021, he filed a successive postconviction petition alleging newly discovered Brady evidence, ineffective assistance, and constitutional inadequacy of Ohio's postconviction procedures. The trial court dismissed the petition for lack of jurisdiction, and the Third District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Liles, 3d Dist. Allen No. 1-14-61, 2015-Ohio-3093, ¶ 45
- State v. Liles, 3d Dist. Allen No. 1-16-33, 2017-Ohio-240, ¶¶ 1, 3, 23, 25
- State v. Apanovitch, 155 Ohio St. 3d 358, 2018-Ohio-4744, ¶¶ 24, 36
- State v. Cunningham, 3d Dist. Allen No. 1-15-61, 2016-Ohio-3106, ¶ 13
- State v. Hendrix, 1st Dist. Hamilton Nos. C-190701 and C-190702, 2021-Ohio-3470, ¶ 13
- State v. Bethel, 2022-Ohio-783, ¶¶ 17, 20, 31-32
- State v. Perry, 10 Ohio St. 2d 175 (1967), paragraph nine of the syllabus
- Brady v. Maryland, 373 U.S. 83 (1963)
- Kyles v. Whitley, 514 U.S. 419, 434 (1995)
- United States v. Bagley, 473 U.S. 667, 678 (1985)
- State v. Hairston, 10th Dist. Franklin No. 13AP-225, 2013-Ohio-3834, ¶ 8
- State v. Demyan, 9th Dist. Lorain No. 11CA010096, 2012-Ohio-3634, ¶ 4
- State v. Clark, 5th Dist. Stark No. 2007 CA 00206, 2008-Ohio-194, ¶ 18
- State v. Pough, 11th Dist. Trumbull No. 2003-T-0129, 2004-Ohio-3933, ¶ 17
- State v. Moore, 8th Dist. Cuyahoga No. 82734, 2003-Ohio-4819, ¶ 16
- State v. Steffen, 70 Ohio St. 3d 399, 410 (1994)
- State v. Calhoun, 86 Ohio St. 3d 279, 281 (1999)
- State v. Lawson, 12th Dist. Clermont No. CA2011-07-056, 2012-Ohio-548, ¶¶ 26-33
- State v. McGuire, 12th Dist. Preble No. CA2000-10-011 (Apr. 23, 2001)
- State v. Cowans, 12th Dist. Clermont No. CA98-10-090 (Sept. 7, 1999)
- State v. La Mar, 4th Dist. Lawrence No. 98 CA 23 (Mar. 17, 2000)
- State v. McGrath, 8th Dist. Cuyahoga No. 97207, 2012-Ohio-816, ¶¶ 12-14
- State v. Yarbrough, 3d Dist. No. 17-2000-10, 2001-Ohio-2351, *11