

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT

State v. McRae

2026-Ohio-1463 (5th Dist. 2026) · No. 2025 CA 0082 · Decided April 22, 2026

SUMMARY

The Ohio Court of Appeals for the Fifth Appellate District affirmed the denial of Charles McRae’s motion for leave to file an untimely petition for postconviction relief. The court held that McRae failed to satisfy the jurisdictional exceptions for an untimely petition under R.C. 2953.23 and that his claims were also barred by res judicata and unsupported by sufficient evidentiary materials.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District
WRITING FOR THE COURT	Kevin W. Popham; William B. Hoffman; Robert G. Montgomery
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District
DECIDED	April 22, 2026
DOCKET	2025 CA 0082
DISPOSITION	affirmed
PROCEDURAL POSTURE	McRae appealed the Richland County Court of Common Pleas' denial of his motion for leave to file an untimely petition for postconviction relief, along with his requests for appointed counsel and expert assistance.
STANDARD OF REVIEW	The court reviewed de novo whether McRae satisfied the jurisdictional requirements for an untimely postconviction petition under R.C. 2953.23(A). It applied an abuse-of-discretion-type statutory hearing analysis under the postconviction authorities cited when reviewing the denial of a hearing.
PRECEDENTIAL VALUE	Published intermediate appellate decision; precedential within the Ohio Fifth Appellate District subject to Ohio law governing appellate precedent.
PARTIES	Charles McRae v. State of Ohio

TOPICS

state post-conviction relief

post-conviction relief

appellate procedure

ineffective assistance

standard of review

PRACTICE AREAS

criminal postconviction procedure

criminal appellate procedure

constitutional criminal procedure

QUESTIONS PRESENTED

1. Whether the trial court properly treated McRae's filing as an untimely petition for postconviction relief under R.C. 2953.21.
2. Whether McRae satisfied either exception permitting consideration of an untimely postconviction petition under R.C. 2953.23(A).
3. Whether McRae's claims were barred by res judicata because they were raised or could have been raised at trial or on direct appeal.
4. Whether the trial court properly denied relief without an evidentiary hearing because McRae submitted no affidavits or evidentiary materials containing sufficient operative facts.
5. Whether the trial court properly denied McRae's requests for appointed counsel and expert assistance in the postconviction proceeding.

HOLDINGS

1. McRae's June 16, 2025 petition was untimely because it was filed more than 365 days after the relevant trial transcripts were filed in his direct appeals.
2. A trial court lacks jurisdiction to consider an untimely postconviction petition unless the petitioner satisfies an exception under R.C. 2953.23(A).
3. McRae's postconviction claims were barred by res judicata because they were based on facts known at trial and either were raised or could have been raised on direct appeal.
4. The trial court properly denied the postconviction motion without an evidentiary hearing because McRae submitted no affidavits or evidentiary materials establishing sufficient operative facts for a constitutional violation.
5. The denial of McRae's requests for appointed counsel and expert assistance was not disturbed because postconviction relief is a civil collateral proceeding and an indigent defendant has no federal or state constitutional right to counsel in such a proceeding.

KEY QUOTATIONS

“Postconviction relief is a civil collateral attack on a criminal judgment, not a second appeal.” (§ 26)

“A trial court may dismiss a petition without a hearing where the petitioner fails to present sufficient operative facts to establish substantive grounds for relief or where the claims are barred by res judicata.” (§ 27)

“Under this doctrine, a defendant may not raise claims in a postconviction petition that were raised or could have been raised at trial or on direct appeal.” (¶ 30)

FACTUAL BACKGROUND

On November 19, 2022, McRae forced entry into his sister's home and assaulted her, causing serious injuries that required surgical repair. A Ring camera recorded the assault. He pleaded guilty to the charged offenses, was sentenced to an aggregate indefinite term, and later received a resentencing after the court of appeals identified sentencing errors. His later postconviction claims concerned allied offenses, the recording of proceedings, ineffective assistance, plea advice, the repeat-violent-offender specification, and competency to plead guilty.

PROCEDURAL HISTORY

McRae pleaded guilty to aggravated burglary, kidnapping, felonious assault, and related offenses and received an aggregate indefinite prison sentence. The court of appeals previously remanded for resentencing, then affirmed the conviction and sentence after resentencing. McRae filed a pro se motion for leave to file a postconviction petition on June 16, 2025, after the applicable statutory deadlines and without affidavits or evidentiary materials. The trial court denied the motion without a hearing, concluding that the petition was untimely and that the claims were barred by res judicata; the court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. McRae, 2024-Ohio-5401 (5th Dist.)
- State v. McRae, 2024-Ohio-922 (5th Dist.)
- State v. McRae, 2025-Ohio-1846
- Hardy v. Belmont Correctional Inst., 2006-Ohio-3316, ¶ 9 (10th Dist.)
- State v. Hall, 2008-Ohio-2128, ¶ 11 (11th Dist.)
- State v. Richard, 2005-Ohio-6494, ¶ 4 (8th Dist.)
- Haines v. Kerner, 404 U.S. 519, 520-521 (1972)
- McNeil v. United States, 508 U.S. 106, 113 (1993)
- Houston v. Lack, 487 U.S. 266 (1988)
- State v. Harris, 2024-Ohio-2993, ¶¶ 9-10 (5th Dist.)
- Wellington v. Mahoning Cty. Bd. of Elections, 2008-Ohio-554, ¶ 18
- State v. Hooks, 92 Ohio St.3d 83 (2001)
- State v. Ishmail, 54 Ohio St.2d 402 (1978)
- Dissolution of Doty v. Doty, 1980 Ohio App. LEXIS 12935 (4th Dist. Feb. 28, 1980)
- Scioto Bank v. Columbus Union Stock Yards, 120 Ohio App. 55, 59 (10th Dist. 1963)
- North v. Beightler, 2006-Ohio-6515, ¶ 7

- Dzina v. Celebrezze, 2006-Ohio-1195, ¶ 16
- State v. Stevens, 2023-Ohio-2736, ¶ 16 (5th Dist.)
- Pennsylvania v. Finley, 481 U.S. 551 (1987)
- State v. Crowder, 60 Ohio St.3d 151, 153 (1991)
- State v. Murphy, 2000 Ohio App. LEXIS 6129 (10th Dist. Dec. 26, 2000)
- State v. Zich, 2017-Ohio-414, ¶ 9 (6th Dist.)
- State v. Hamm, 2024-Ohio-1621, ¶ 20 (5th Dist.)
- DeHart v. Aetna Life Ins. Co., 69 Ohio St.2d 189, 192 (1982)
- Cobb v. Cobb, 62 Ohio St.2d 124 (1980)
- State v. Calhoun, 86 Ohio St.3d 279, 281-285 (1999)
- State v. Phillips, 2002-Ohio-823 (9th Dist.)
- State v. Watson, 126 Ohio App.3d 316, 323 (12th Dist. 1998)
- State v. Lentz, 70 Ohio St.3d 527, 530 (1994)
- State v. Perry, 10 Ohio St.2d 175 (1967)
- State v. Szefcyk, 77 Ohio St.3d 93 (1996)
- State v. Reynolds, 79 Ohio St.3d 158, 161 (1997)
- State v. Jackson, 64 Ohio St.2d 107, 111 (1980)
- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Apanovitch, 2018-Ohio-4744, ¶¶ 24, 36
- State v. Parker, State v. Parker, 2019-Ohio-3848, ¶ 19
- State v. Morris, 2025-Ohio-1800, ¶ 11 (10th Dist.)

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