

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT, COUNTY
OF CUYAHOGA

State v. Abraham

2026-Ohio-1561 · No. 115553 · Decided April 30, 2026

SUMMARY

The Ohio Eighth District Court of Appeals affirmed the denial of Ralieg Abraham’s untimely motion for a new trial because he filed it before obtaining leave of court as required by Ohio Criminal Rule 33(B). The court remanded the case for the trial court to consider Abraham’s still-pending motion for leave.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, County of Cuyahoga
WRITING FOR THE COURT	Michelle J. Sheehan, Administrative Judge; Anita Laster Mays, Judge; Deena R. Calabrese, Judge
JURISDICTION	Ohio Court of Appeals, Eighth Appellate District, Cuyahoga County
DECIDED	April 30, 2026
DOCKET	115553
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the trial court's denial of his untimely motion for a new trial. The appellate court affirmed the denial and remanded for consideration of his separately filed pending motion for leave to file the new-trial motion.
STANDARD OF REVIEW	The appellate court reviewed the trial court's denial of the motion for new trial and applied the procedural requirements of Crim.R. 33(B). The assignment of error asserted abuse of discretion, but the decision primarily resolved whether the motion complied with the required leave-first procedure.
PRECEDENTIAL VALUE	published
PARTIES	Ralieg Abraham v. State of Ohio

TOPICS

post-conviction relief

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PRACTICE AREAS

criminal procedure

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QUESTIONS PRESENTED

1. Whether the trial court properly denied an untimely motion for new trial that was filed before the court granted leave under Crim.R. 33(B).
2. Whether the appellate court should remand for the trial court to rule on the defendant's pending motion for leave.

HOLDINGS

1. Under Crim.R. 33(B), a defendant seeking a new trial outside the applicable time period must first obtain leave of court; filing the untimely motion for new trial simultaneously with, or before the ruling on, the motion for leave does not satisfy the required procedure. The trial court therefore properly denied Abraham's untimely motion for new trial.
2. When the trial court denies an untimely motion for new trial without addressing a separately pending motion for leave, the appellate court may affirm the denial of the new-trial motion and remand with instructions for the trial court to consider the motion for leave.

KEY QUOTATIONS

“In short, an untimely motion for new trial based on newly discovered evidence may be filed only after the trial court grants leave to file it.” (Section II.1)

“When a defendant files an untimely new-trial motion without first obtaining leave of court, he or she fails to comply with the necessary procedural steps set forth in Crim.R. 33(B)” (Section II.2)

FACTUAL BACKGROUND

Abraham was convicted after a bench trial of two counts of rape under R.C. 2907.02(A)(1)(c). More than 120 days after the verdict, he filed a motion for new trial based on newly discovered evidence at the same time as a motion for leave. The trial court denied the motion for new trial before ruling on the motion for leave.

PROCEDURAL HISTORY

After a January 2024 bench trial, Abraham was convicted of two counts of rape and received an aggregate prison term of three years to a maximum of four years and six months. His direct appeal was unsuccessful, and his application to reopen the appeal was denied. He later filed a post-conviction petition alleging ineffective assistance, which was denied. Abraham then filed an untimely motion for new trial and a motion for leave on the same day; the trial court denied the new-trial motion without ruling on the motion for leave. The Court of Appeals affirmed the denial of the new-trial motion and remanded for the trial court to address the pending motion for leave.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Cuyahoga County Court of Common Pleas must consider and rule on Abraham's pending motion for leave to file an untimely motion for new trial.

CASES CITED

- State v. McAlpin, 2026-Ohio-148, ¶¶ 16-18, 23, 25
- State v. Hatton, 2022-Ohio-3991, ¶¶ 28-29
- State v. Abraham, 2024-Ohio-5600, ¶¶ 58-59
- State v. Abraham, 2025-Ohio-1446, ¶ 20

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