

SUPREME COURT OF OHIO

State ex rel. Krug v. Stuff

2026-Ohio-1995 · No. 2025-1273 · Decided June 3, 2026

SUMMARY

The Supreme Court of Ohio affirmed dismissal of Jon Paul Krug’s petition for a writ of habeas corpus. The court held that his claims concerning alleged sentencing errors, a defective sentencing entry, and due-process violations were not cognizable in habeas corpus because they involved, at most, voidable errors and he had or had had adequate remedies in the ordinary course of law. The court concluded that Krug failed to state a valid habeas claim.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Kennedy, C.J.; Fischer, J.; DeWine, J.; Brunner, J.; Deters, J.; Hawkins, J.; Shanahan, J.
JURISDICTION	Supreme Court of Ohio
DECIDED	June 3, 2026
DOCKET	2025-1273
DISPOSITION	affirmed
PROCEDURAL POSTURE	Krug appealed as of right from the Fifth District Court of Appeals' dismissal of his habeas corpus petition under Civ.R. 12(B)(6).
STANDARD OF REVIEW	The court reviewed de novo the dismissal of the habeas corpus petition under Civ.R. 12(B)(6), accepting factual allegations as true and drawing reasonable inferences in the petitioner's favor.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion
PARTIES	Jon Paul Krug v. Angela Stuff, Warden

TOPICS

- habeas corpus
- post-conviction relief
- sentencing
- appellate procedure
- due process

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether an alleged sentencing error based on impermissible judicial factfinding was cognizable in habeas corpus.
2. Whether an alleged defect in the sentencing entry rendered Krug's sentence void and subject to habeas corpus relief.
3. Whether the trial court's alleged denial of due process in denying Krug's nunc pro tunc motion was cognizable in habeas corpus.
4. Whether Krug had an adequate remedy in the ordinary course of law that precluded habeas corpus relief.

HOLDINGS

1. An alleged sentencing error is not cognizable in habeas corpus when the sentencing court had jurisdiction over the criminal case and the petitioner had or has an adequate remedy through direct appeal or postconviction proceedings. A habeas petition also cannot be used to obtain successive appellate review of an issue already litigated on direct appeal.
2. An alleged sentencing error that occurs when a court with jurisdiction over the case and the person exercises that jurisdiction improperly renders the sentence voidable, not void, and therefore is not cognizable in habeas corpus.
3. A due-process claim concerning the denial of a nunc pro tunc motion is not cognizable in habeas corpus.
4. Krug failed to state a valid claim for a writ of habeas corpus because all three asserted claims were noncognizable; the Fifth District properly dismissed the petition.

KEY QUOTATIONS

“If a trial court “has jurisdiction over the case and the person, any sentence or judgment based on an error in the court’s exercise of that jurisdiction is voidable.”” (¶ 11)

“In sum, the three claims asserted in Krug’s habeas petition are not cognizable in habeas corpus.” (¶ 14)

FACTUAL BACKGROUND

Krug has been incarcerated since his 2008 convictions for felonious assault and carrying a concealed weapon arising from a bar fight in which he stabbed and seriously injured two people. He received an aggregate 37-year-and-six-month prison sentence, including consecutive terms associated with repeat-violent-offender specifications. In 2025, he claimed that his sentence had expired and that judicial factfinding, a discrepancy between the sentencing hearing and sentencing entry, and the denial of a nunc pro tunc motion entitled him to immediate release.

PROCEDURAL HISTORY

Krug was convicted and sentenced in the Lake County Court of Common Pleas in 2008. The Eleventh District affirmed on direct appeal, and the Supreme Court of Ohio declined discretionary review. In 2025, Krug filed a habeas corpus petition in the Fifth District challenging his sentence, sentencing entry, and the denial of a nunc

pro tunc motion. The Fifth District granted the warden's motion to dismiss, denied reconsideration, and the Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Krug, 2009-Ohio-3815, ¶¶ 40, 121, 168-171
- State ex rel. Spencer v. Forshey, 2023-Ohio-4568, ¶ 6
- State ex rel. Davis v. Turner, 2021-Ohio-1771, ¶ 8
- Leyman v. Bradshaw, 2016-Ohio-1093, ¶¶ 8-9
- State ex rel. Golson v. Moore, 2007-Ohio-6434, ¶ 5
- Wells v. Hudson, 2007-Ohio-1955, ¶ 7
- State ex rel. Harris v. Turner, 2020-Ohio-2901, ¶ 7
- Dunkle v. Department of Rehabilitation and Correction, 2017-Ohio-551, ¶ 8
- Appenzeller v. Miller, 2013-Ohio-3719, ¶ 9
- State v. Henderson, 2020-Ohio-4784, ¶ 37
- State v. Harper, State v. Harper, 2020-Ohio-2913, ¶ 25
- State ex rel. Slaughter v. Foley, 2021-Ohio-4049, ¶ 9
- State ex rel. Barnette v. Hill, 2022-Ohio-2469, ¶ 9

OPINION

State ex rel. Krug v. Stuff

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PER CURIAM.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Krug v. Stuff, Slip Opinion No. 2026-Ohio-1995.]

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2026-OHIO-1995

THE STATE EX REL . KRUG, APPELLANT , v. STUFF, WARDEN, APPELLEE. [Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Krug v. Stuff, Slip Opinion No. 2026-Ohio-1995.] Habeas corpus—Inmate’s claims challenging his

sentence and the sentencing entry and alleging violation of his due-process rights are not cognizable in habeas corpus—Court of appeals’ judgment granting warden’s motion to dismiss affirmed. (No. 2025-1273—Submitted March 24, 2026—Decided June 3, 2026.) APPEAL from the Court of Appeals for Richland County, No. 2025 CA 0042, 2025-Ohio-3039.

_____ The per curiam opinion below was joined by KENNEDY, C.J., and FISCHER, DEWINE, BRUNNER, DETERS, HAWKINS, and SHANAHAN, JJ.

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Per Curiam. {¶ 1} Appellant, Jon Paul Krug, is incarcerated at the Richland Correctional Institution, where appellee, Angela Stuff, is the warden. Krug appeals the Fifth District Court of Appeals’ judgment dismissing his petition for a writ of habeas corpus. Because the Fifth District correctly determined that Krug had failed to state a valid claim for relief in habeas corpus, we affirm.

I. BACKGROUND

{¶ 2} Krug has been incarcerated since his 2008 convictions in the Lake County Court of Common Pleas on felonious-assault and concealed-weapons charges arising from a bar fight in which he stabbed and seriously injured two people. In July 2025, he filed a petition for a writ of habeas corpus in the Fifth District, arguing that he was entitled to immediate release from prison because his sentence expired on June 30, 2025. {¶ 3} Krug was convicted by a jury in April 2008 on four counts of felonious assault and one count of carrying concealed weapons. Each of the four felonious-assault counts carried a repeat-violent-offender (“RVO”) specification. During the trial, Krug stipulated that he previously had been convicted of violent offenses as alleged in the RVO specifications. The trial court found that Krug was a repeat violent offender under former R.C. 2929.14(D)(2) (now R.C. 2929.14(B)(2)). After merging the four felonious-assault counts into two for purposes of sentencing, the court imposed an aggregate prison sentence of 37 years and 6 months: 8 years for each of the two felonious-assault counts that remained after merger and 18 months for the concealed-weapons charge, to be served consecutively, and an additional 10-year term for each RVO specification attached to the two merged felonious-assault charges that remained after merger, to run consecutively to all other counts. {¶ 4} Krug appealed to the Eleventh District Court of Appeals. As pertinent here, he argued that the trial court erred by engaging in impermissible judicial 2 January Term, 2026 factfinding before it imposed additional prison terms for the RVO specifications. *State v. Krug*, 2009-Ohio-3815, ¶ 40, 121, 168 (11th Dist.). The court of appeals affirmed, overruling this assignment of error and holding that the trial court had imposed the additional two terms for the RVO specifications under the mandatory provisions of former R.C. 2929.14(D)(2)(b), not the discretionary provisions of subsection (D)(2) (a), and thus did not engage in impermissible factfinding before sentencing Krug to those two terms. *Id.* at ¶ 168-171. This court did not accept Krug’s discretionary appeal for review. 2010-Ohio-3331. {¶ 5} In February 2025, Krug filed a motion for a nunc pro tunc order in the trial court, contending that whereas the sentencing entry recites that the court imposed additional prison

terms for the RVO specifications under the mandatory provisions of former R.C. 2929.14(D)(2)(b), the court “orally pronounced” during the sentencing hearing that it was imposing the additional terms under subsection (D)(2)(a), which provides for a discretionary RVO designation. According to Krug’s habeas petition, the court “summarily denied this motion without addressing the constitutional dimensions of the error.” Krug does not appear to have appealed this ruling, and neither the nunc pro tunc motion nor the sentencing entry denying it are included in the record. {¶ 6} On July 8, 2025, Krug filed his habeas petition in the Fifth District, alleging three grounds for relief: (1) Krug’s sentence exceeds the statutory maximum authorized by the jury’s verdict in that the trial court engaged in impermissible judicial factfinding before imposing additional prison terms for the RVO specifications, (2) the sentencing entry contains a material defect that renders Krug’s sentence void, and (3) the trial court violated Krug’s due-process rights when denying his motion for a nunc pro tunc order. Each of these arguments is premised on Krug’s assertion that the trial court impermissibly designated him as a repeat violent offender under former R.C. 2929.14(D)(2)(a), as stated during the 3

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sentencing hearing, rather than under subsection (D)(2)(b), as recited in the sentencing entry. The warden filed a motion to dismiss under Civ.R. 12(B)(6). {¶ 7} The Fifth District granted the warden’s motion, rejecting all three of Krug’s arguments. First, the court held that Krug’s argument that the trial court engaged in judicial factfinding before imposing additional prison terms for the RVO specifications did not state a claim for habeas relief, because he had asserted the same argument on direct appeal. 2025-Ohio-3039, ¶ 17. Second, the court held that Krug’s argument that the sentencing entry was defective was not cognizable in habeas corpus, because sentencing errors are not jurisdictional and any error would not render the sentence void. *Id.* at ¶ 21-22. The court also held that Krug had an adequate remedy in the ordinary course of the law by way of direct appeal, thus precluding the issuance of a writ of habeas corpus. *Id.* at ¶ 23. Third, the court held that Krug’s argument that he was denied due process was not cognizable in habeas corpus. *Id.* at ¶ 26. {¶ 8} Krug filed an application for reconsideration, which the Fifth District denied. He has now appealed to this court as of right.

II. ANALYSIS

A. Legal Standards {¶ 9} We review de novo a court of appeals’ Civ.R. 12(B)(6) dismissal of a habeas corpus petition. *State ex rel. Spencer v. Forshey*, 2023-Ohio-4568, ¶ 6. Dismissal is appropriate if it appears beyond doubt from the petition, presuming all factual allegations as true and making all reasonable inferences in the nonmovant’s favor, that the petitioner can prove no set of facts entitling him to a writ of habeas corpus. *Id.* To be entitled to the writ, Krug must show that he is being unlawfully restrained of his liberty and that he is entitled to immediate release from prison or confinement. R.C. 2725.01; *State ex rel. Davis v. Turner*, 2021-Ohio-1771, ¶ 8. A writ of habeas corpus is not available when the petitioner has an adequate remedy in the ordinary course of the law except when the court causing the confinement 4 January Term, 2026 patently and

unambiguously lacked subject-matter jurisdiction. *Leyman v. Bradshaw*, 2016-Ohio-1093, ¶ 8-9. B. Krug Is Not Entitled to a Writ of Habeas Corpus {¶ 10} In his habeas petition, Krug first asserted that his incarceration is unlawful because his 37.5-year aggregate sentence exceeds the statutory maximum authorized by the jury's verdict in that the trial court engaged in impermissible judicial factfinding before imposing the two additional ten-year terms for the RVO specifications. This claim, which alleges a sentencing error, is not cognizable in habeas corpus. See *State ex rel. Golson v. Moore*, 2007-Ohio-6434, ¶ 5 (dismissing habeas petition alleging that trial court improperly enhanced the petitioner's sentence on ground that sentencing errors are not jurisdictional and are not cognizable in habeas corpus). Krug has or had adequate remedies in the ordinary course of the law through direct appeal and a postconviction petition for review of any alleged sentencing error. *Id.* Moreover, he raised this issue on direct appeal, see *Krug*, 2009-Ohio-3815, at ¶ 168-171, and he cannot now use a habeas petition to obtain successive appellate review of the same issue, *Wells v. Hudson*, 2007- Ohio-1955, ¶ 7. {¶ 11} The second argument Krug asserted in his habeas petition is that the sentencing entry contains a material defect that renders his sentence void. He contends that because the trial court referred only to former R.C. 2929.14(D) (2)(a) during the sentencing hearing, the reference to subsection (D)(2)(b) in the sentencing entry is a material defect that "purports to authorize detention under a statutory provision that was never invoked in open court." Like Krug's first argument, this sentencing-error claim is not jurisdictional and thus is not cognizable in habeas corpus. See *State ex rel. Harris v. Turner*, 2020-Ohio-2901, ¶ 7. A writ of habeas corpus "'will lie only to challenge the jurisdiction of the sentencing court.'" *Dunkle v. Dept. of Rehab. & Corr.*, 2017-Ohio-551, ¶ 8, quoting *Appenzeller v. Miller*, 2013-Ohio-3719, ¶ 9. Although Krug asserts that this alleged 5

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sentencing error renders the judgment void, even assuming that the trial court erred in sentencing Krug, the alleged error would render the sentence voidable, not void. If a trial court "has jurisdiction over the case and the person, any sentence or judgment based on an error in the court's exercise of that jurisdiction is voidable." *State v. Henderson*, 2020-Ohio-4784, ¶ 37. Here, the Lake County Court of Common Pleas had jurisdiction over Krug's criminal trial on felonious-assault charges. *State v. Harper*, 2020-Ohio-2913, ¶ 25, citing R.C. 2931.03; see also R.C. 2903.11(D)(1)(a) (defining felonious assault as second-degree felony). "[A] sentence that is voidable cannot be challenged in habeas corpus, because the inmate has an adequate remedy through direct appeal." *State ex rel. Slaughter v. Foley*, 2021-Ohio-4049, ¶ 9. {¶ 12} The third argument Krug asserted in his habeas petition is that the trial court violated his constitutional right to due process when it "summarily denied" his motion for a nunc pro tunc order to correct the allegedly defective sentencing entry. However, due-process claims are not cognizable in habeas corpus. *State ex rel. Barnette v. Hill*, 2022-Ohio-2469, ¶ 9. {¶ 13} In his merit brief, Krug asserts three propositions of law that are variations on his argument that he is unlawfully confined because the trial court lacked jurisdiction to sentence him to an enhanced prison term after

allegedly engaging in impermissible judicial factfinding. As explained above, because the trial court had jurisdiction over his felony case, any sentence based on the alleged sentencing error would be voidable, not void. See Henderson at ¶ 37. Even assuming a sentencing error, Krug's challenge to a voidable sentence is not cognizable in habeas corpus, because he had an adequate remedy in the ordinary course of the law through direct appeal. Slaughter at ¶ 9. {¶ 14} In sum, the three claims asserted in Krug's habeas petition are not cognizable in habeas corpus. Because Krug failed to state a valid claim for a writ of habeas corpus, the Fifth District correctly granted the warden's motion to dismiss.

III. CONCLUSION

{¶ 15} We affirm the judgment of the Fifth District Court of Appeals dismissing Krug's petition for a writ of mandamus. Judgment affirmed. _____ Jon Paul Krug, pro se. Dave Yost, Attorney General, and William H. Lamb, Assistant Attorney General, for appellee.