

COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT,
TUSCARAWAS COUNTY

State v. Ginier

2026-Ohio-415 · No. 2025 AP 08 0030 · Decided February 5, 2026

SUMMARY

The Fifth District Court of Appeals affirmed the denial of Arthur J. Ginier III’s motion to correct his sentencing entry. The court held that his claims regarding sentencing notifications were barred by res judicata and that he failed to provide a transcript supporting the alleged sentencing errors.

CASE DETAILS

COURT	Court of Appeals of Ohio, Fifth Appellate District, Tuscarawas County
WRITING FOR THE COURT	Robert G. Montgomery; Craig R. Baldwin; David M. Gormley
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District
DECIDED	February 5, 2026
DOCKET	2025 AP 08 0030
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a motion to correct a sentencing entry, construed as akin to a post-conviction proceeding.
STANDARD OF REVIEW	The appellate court reviewed whether the trial court properly denied the motion and presumed the validity of the lower-court proceedings where the appellant failed to provide the transcript necessary to demonstrate error.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Arthur J. Ginier III v. State of Ohio

TOPICS

- post-conviction relief
- criminal procedure
- appellate procedure
- sentencing
- preservation of error

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- appellate procedure
- sentencing

QUESTIONS PRESENTED

1. Whether Ginier's motion to correct the sentencing entry was barred by res judicata because the alleged sentencing-notification error could have been raised on direct appeal.
2. Whether the trial court properly denied the motion when Ginier failed to provide a transcript supporting his claim that the sentencing court failed to give the required notification.
3. Whether the requested correction could properly be made through a nunc pro tunc entry as a correction of a clerical error.

HOLDINGS

1. The sentencing issues raised by Ginier were cognizable on direct appeal and therefore were barred by res judicata because he did not file a direct appeal.
2. The trial court properly denied the motion because Ginier failed to provide the transcript necessary to establish that the sentencing court omitted the alleged notification.
3. Although a trial court may use a nunc pro tunc entry to correct a clerical error and make the judgment entry accurately reflect the decision actually made, Ginier's requested substantive sentencing correction was not established on the record.

KEY QUOTATIONS

“a final judgment of conviction bars the defendant from raising and litigating in any proceeding, except an appeal from that judgment, any defense or any claimed lack of due process that the defendant raised or could have raised at the trial which resulted in that judgment of conviction or on appeal from that judgment.” (¶6)

“Where portions of the transcript necessary for resolution of the assigned errors are omitted from the record, an appellate court has nothing to pass upon and we must presume the validity of the lower court's proceedings.” (¶9)

FACTUAL BACKGROUND

Ginier entered a negotiated no-contest plea to attempted murder, felonious assault, two counts of grand theft of a motor vehicle, and theft. The trial court imposed an aggregate prison term of seven years minimum to ten and one-half years maximum, with no additional sentences imposed for the remaining convictions. More than five years later, Ginier sought to add language to the sentencing entry concerning the presumption of early release after the minimum term for non-life felonies, but he did not provide the plea or sentencing transcript.

PROCEDURAL HISTORY

Ginier pleaded no contest in 2020 to attempted murder, felonious assault, two counts of grand theft of a motor vehicle, and theft, and received an aggregate prison term of seven to ten and one-half years. He filed no direct appeal. In 2025, he moved to correct the sentencing entry to add a notification concerning the presumption of early release under R.C. 2967.271(B). The Tuscarawas County Court of Common Pleas denied the motion because the claims were barred by res judicata and Ginier failed to provide a transcript; the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Krouskoupf, 2024-Ohio-1748, ¶¶35-36 (5th Dist.)
- State v. Reynolds, 79 Ohio St.3d 158, 160-161 (1997)
- State v. Calhoun, 86 Ohio St.3d 279, 281 (1999)
- State v. Broom, 2016-Ohio-1028, ¶28
- State v. Snyder, 2016-Ohio-832, ¶26 (5th Dist.)
- State v. Perry, 10 Ohio St.2d 175 (1967)
- State v. Elmore, 2005-Ohio-5940, ¶21 (5th Dist.)
- State v. Feagin, 2023-Ohio-2847, ¶¶35-36 (5th Dist.)
- State v. Apanovitch, 2018-Ohio-4744, ¶¶36, 38
- State ex rel. Cruzado v. Zaleski, 2006-Ohio-5795, ¶19
- Knapp v. Edwards Laboratories, 61 Ohio St.2d 197 (1980)
- State v. Skaggs, 53 Ohio St.2d 162, 372 N.E.2d 1355 (1978)
- In re C.M., 2020-Ohio-2834, ¶9 (5th Dist.)

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