

COURT OF APPEALS OF OHIO, SIXTH APPELLATE DISTRICT, LUCAS COUNTY

State v. Sutton

2026-Ohio-281 · No. Lucas County Court of Appeals No. L-24-1255 · Decided January 29, 2026

SUMMARY

The Sixth District Court of Appeals affirmed the denial of James Sutton’s successive and untimely post-conviction petition. The court held that Sutton failed to show he was unavoidably prevented from discovering the facts supporting his claim and that the affidavits he submitted did not establish the statutory exception to the jurisdictional bar. The court also concluded that no evidentiary hearing was required and ordered Sutton to pay appellate costs.

CASE DETAILS

COURT	Court of Appeals of Ohio, Sixth Appellate District, Lucas County
WRITING FOR THE COURT	Thomas J. Osowik, Presiding Judge; Gene A. Zmuda, Judge; Charles E. Sulek, Judge
JURISDICTION	Ohio Court of Appeals, Sixth Appellate District, Lucas County
DECIDED	January 29, 2026
DOCKET	Lucas County Court of Appeals No. L-24-1255
DISPOSITION	affirmed
PROCEDURAL POSTURE	James Sutton appealed the Lucas County Court of Common Pleas' denial of his successive, untimely post-conviction petition seeking relief based on alleged exculpatory witness statements and affidavits.
STANDARD OF REVIEW	Whether a common pleas court has subject-matter jurisdiction to entertain an untimely or successive post-conviction petition is reviewed de novo. The assessment of affidavit credibility in post-conviction proceedings is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals decision
PARTIES	James Sutton v. State of Ohio

TOPICS

- successive petitions
- state post-conviction relief
- criminal procedure
- appellate procedure
- evidence

PRACTICE AREAS

Ohio criminal law

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether Sutton established under R.C. 2953.23(A)(1)(a) that he was unavoidably prevented from discovering the facts supporting his untimely and successive post-conviction petition.
2. Whether Sutton established under R.C. 2953.23(A)(1)(b) by clear and convincing evidence that, but for constitutional error at trial, no reasonable factfinder would have found him guilty.
3. Whether the trial court abused its discretion in evaluating and rejecting the affidavits submitted in support of the petition.
4. Whether the trial court was required to hold an evidentiary hearing before denying the petition.

HOLDINGS

1. A trial court lacks subject-matter jurisdiction over an untimely or successive post-conviction petition unless the petitioner satisfies both prongs of R.C. 2953.23(A)(1): unavoidable prevention from discovering the supporting facts and clear and convincing proof that, absent constitutional error at trial, no reasonable factfinder would have found the petitioner guilty.
2. The second prong of R.C. 2953.23(A)(1)(b), requiring proof that no reasonable factfinder would have found the petitioner guilty but for constitutional error at trial, cannot apply when the defendant entered a guilty plea.
3. The trial court did not abuse its discretion in finding the supporting affidavits insufficient or lacking credibility and evidentiary value.
4. The trial court was not required to hold an evidentiary hearing because Sutton failed to establish the jurisdictional requirements for consideration of his untimely and successive petition.

KEY QUOTATIONS

“A trial court does not have subject-matter jurisdiction to adjudicate a postconviction petition that is untimely—i.e., filed outside the statutory deadline under R.C. 2953.21(A)(2)—or successive—i.e., a second or subsequent petition.” (¶ 21)

“The question whether a court of common pleas possesses subject-matter jurisdiction to entertain an untimely or successive petition for postconviction relief is a question of law, which appellate courts review de novo.” (¶ 22)

“We have consistently held that the second prong of R.C. 2953(A)(1)(b) cannot apply where a defendant enters a guilty plea because by entering a plea of guilty, the accused is not simply stating that he did the discrete acts described in the indictment, he is admitting guilt of a substantive crime” (¶ 45)

FACTUAL BACKGROUND

Sutton was indicted for offenses arising from shootings at a Toledo nightclub and a later gas-station shooting. He ultimately entered an Alford guilty plea to two counts of felonious assault, voluntary manslaughter, and a firearm specification, receiving a thirty-year consecutive sentence. In support of his later successive post-conviction petition, Sutton relied principally on a 2016 statement attributed to victim D.G., a 2023 affidavit from D.G., and affidavits containing or recounting statements concerning another victim, T.G. The court found that Sutton knew of D.G.'s exculpatory statement by 2016 and that the other affidavit evidence did not establish the statutory requirements for jurisdiction.

PROCEDURAL HISTORY

Sutton pleaded guilty under *North Carolina v. Alford* to two counts of felonious assault, amended voluntary manslaughter, and a firearm specification, receiving an aggregate thirty-year prison sentence. The Sixth District affirmed the conviction and sentence on direct appeal in 2013. Sutton later filed several motions, including a 2016 motion to reconsider his sentence or withdraw his plea, a 2020 motion to correct a void sentence, and the 2023 motion at issue here. The trial court held that Sutton failed to satisfy both jurisdictional exceptions for an untimely or successive petition under R.C. 2953.23(A)(1), and the appellate court affirmed.

DISPOSITION

affirmed

CASES CITED

- *State v. Sutton*, 2013-Ohio-5629, ¶¶ 2-4, 21 (6th Dist.)
- *North Carolina v. Alford*, 400 U.S. 25 (1970)
- *Anders v. California*, 386 U.S. 738 (1967)
- *State v. Apanovitch*, 2018-Ohio-4744, ¶¶ 36, 38
- *State v. Martin*, 2025-Ohio-144, ¶¶ 24-27 (11th Dist.)
- *State v. Kane*, 2017-Ohio-7838, ¶ 9 (10th Dist.)
- *State v. Bethel*, 2022-Ohio-783, ¶ 21
- *State v. Waddy*, 2016-Ohio-4911, ¶ 35 (10th Dist.)
- *State v. Klein*, 2020-Ohio-6948, ¶ 11 (1st Dist.)
- *State v. Fortson*, 2003-Ohio-5387, ¶ 11 (8th Dist.)
- *State v. Lenard*, 2023-Ohio-4529, ¶ 13 (8th Dist.), appeal not allowed, 2024-Ohio-763, ¶ 13
- *State v. Calhoun*, 86 Ohio St. 3d 279 (1999)
- *Cannon v. Shaffer*, 2010-Ohio-538, ¶ 3 (8th Dist.)
- *Griffin v. McFaul*, 2007-Ohio-5506
- *State v. Allen*, 2025-Ohio-5555, ¶ 38 (6th Dist.)
- *State v. Guevarra*, 2022-Ohio-1974, ¶¶ 20-21 (6th Dist.)
- *State v. Pitts*, 2023-Ohio-3545, ¶ 20 (6th Dist.)
- *State v. McDonald*, 2005-Ohio-798, ¶ 18 (6th Dist.)

- State v. DeJesus, 2026-Ohio-215 (6th Dist.)
- State v. Acosta, 2025-Ohio-1847, ¶ 25 (6th Dist.)
- State v. Davis, 2022-Ohio-4767, ¶ 29 (6th Dist.)
- State v. Cool, 2009-Ohio-4333, ¶ 14 (9th Dist.)

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