

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

State v. Jones

2026-Ohio-1455 (Ohio Ct. App. 8th Dist. 2026) · No. 115535 · Decided April 23, 2026

SUMMARY

The Ohio Eighth District Court of Appeals affirmed the denial of Mike Jones's untimely and successive petition for postconviction relief and his motion for leave to file a motion for a new trial. The court addressed the statutory requirements for untimely or successive postconviction petitions, the Crim.R. 33(B) standard for newly discovered evidence, and Jones's claims concerning alleged Brady suppression and newly identified witness evidence.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Deena R. Calabrese; Michelle J. Sheehan; Anita Laster Mays
JURISDICTION	Ohio Court of Appeals, Eighth Appellate District, Cuyahoga County
DECIDED	April 23, 2026
DOCKET	115535
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the denial of an untimely and successive petition for postconviction relief and a motion for leave to file an untimely motion for new trial.
STANDARD OF REVIEW	The denial of postconviction relief is ordinarily reviewed for abuse of discretion, but subject-matter jurisdiction over an untimely or successive petition is reviewed de novo. Denial of a motion for leave to file an untimely motion for new trial, and the decision whether to hold a hearing on that motion, are reviewed for abuse of discretion. Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential within the Ohio Court of Appeals, Eighth Appellate District, subject to applicable Ohio Supreme Court authority.
PARTIES	Mike Jones v. State of Ohio

TOPICS

state post-conviction relief

successive petitions

actual innocence

prosecutorial misconduct

appellate procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

appellate procedure

evidence

constitutional law

QUESTIONS PRESENTED

1. Whether the trial court had jurisdiction to entertain Jones's untimely and successive petition for postconviction relief under R.C. 2953.23(A)(1).
2. Whether Jones established that he was unavoidably prevented from discovering the interoffice memorandum or Taylor's proposed testimony.
3. Whether the interoffice memorandum established a Brady violation or was discoverable evidence rather than protected prosecutorial work product.
4. Whether Jones could avoid the unavoidably-prevented requirement by recasting his claim as ineffective assistance of counsel.
5. Whether the trial court properly denied leave to file an untimely motion for new trial under Crim.R. 33(B).
6. Whether res judicata barred Jones's ineffective-assistance arguments.

HOLDINGS

1. A court may entertain an untimely or successive postconviction petition only if the petitioner satisfies the exceptions in R.C. 2953.23(A), including showing that he was unavoidably prevented from discovering the facts on which the claim relies and, where applicable, showing by clear and convincing evidence that no reasonable factfinder would have found him guilty absent constitutional error.
2. In an untimely or successive postconviction petition asserting a Brady claim, the petitioner may satisfy the unavoidably-prevented requirement by establishing that the prosecution suppressed the evidence, but the petitioner still bears the burden of proving suppression.
3. The interoffice memorandum was protected prosecutorial work product, was not evidence that the State was required to disclose, and did not establish a Brady violation.
4. Even assuming the memorandum had been suppressed, Jones failed to show that it was material under Brady or that it undermined confidence in the verdict.
5. A petitioner cannot circumvent the unavoidably-prevented requirement for an untimely or successive postconviction petition by arguing that counsel was ineffective for failing to use evidence that counsel allegedly possessed.
6. The Taylor affidavit did not establish that Jones was unavoidably prevented from discovering her identity or proposed testimony, and its contents did not satisfy the additional requirement that no reasonable factfinder would have found Jones guilty.

7. The trial court properly denied Jones's motion for leave under Crim.R. 33(B) because the unavoidably-prevented requirement mirrors the requirement applicable to an untimely or successive postconviction petition, and a hearing would have been futile.
8. Res judicata barred Jones's ineffective-assistance arguments that could have been raised on direct appeal or in his first postconviction petition; the remaining res judicata issue was moot in light of the disposition of the other assignments of error.

KEY QUOTATIONS

“A petitioner may make the required showing either by establishing a violation under Brady, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215, or by demonstrating that he was previously unaware of the evidence on which the petition relies and could not have discovered it by exercising reasonable diligence.” (IV.A.1.a)

“The State had no duty to turn over the interoffice memorandum. Jones cannot establish a Brady violation.” (IV.A.1.b)

“Any hearing on a motion for new trial based on Jones’s proffered new materials would have been an exercise in futility.” (IV.B)

FACTUAL BACKGROUND

Jones was convicted after a jury trial for the shooting death of a twelve-year-old child during an exchange of gunfire involving a white vehicle and people at a neighborhood location. Jones admitted to police that he fired a .22-caliber pistol toward the vehicle in what he characterized as self-defense. In his successive filings, Jones relied on an interoffice memorandum from an assistant prosecutor referring to the victim's death and on Larissa Taylor's affidavit claiming that she saw shots fired from the white vehicle. The court found that the memorandum did not identify suppressed evidence and that Taylor's account conflicted with trial evidence and Jones's own statement.

PROCEDURAL HISTORY

Jones was convicted of murder and a firearm specification in 2001, and his convictions were affirmed on direct appeal. His first petition for postconviction relief and an earlier motion for leave to file a motion for new trial were denied. In 2025, he filed the combined untimely and successive postconviction petition and motion for leave, relying principally on an assistant prosecutor's interoffice memorandum and an affidavit from Larissa Taylor. The trial court denied the filings, concluding that Jones had not shown he was unavoidably prevented from discovering the evidence; the court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Jackson, 2025-Ohio-2363
- State v. Kennedy, 2024-Ohio-66

- State v. Gondor, 2006-Ohio-6679
- State v. Apanovitch, 2018-Ohio-4744
- State v. Broom, 2016-Ohio-1028
- State v. Johnson, 2024-Ohio-134
- State v. Bethel, 2022-Ohio-783
- State v. Dye, 2024-Ohio-3191
- Strickler v. Greene, 527 U.S. 263 (1999)
- Kyles v. Whitley, 514 U.S. 419 (1995)
- Banks v. Dretke, 540 U.S. 668 (2004)
- State v. Anderson, 2025-Ohio-1254
- State v. Whatley, 2024-Ohio-4909
- State v. Kenney, 2025-Ohio-4841
- State v. Henry, 37 Ohio App.3d 3 (6th Dist. 1987)
- State v. Scoggins, 2017-Ohio-8989
- State v. Thomas, 2018-Ohio-3768
- Toledo v. Moore, 2003-Ohio-2362
- State v. Cullers, 2001-Ohio-1759 (2d Dist. 2001)
- State v. Smith, 2024-Ohio-1360
- State v. Collins, 2020-Ohio-918
- State v. McFarland, 2022-Ohio-4638
- State v. Hubbard, 2020-Ohio-2726
- State v. Blakemore, 5 Ohio St.3d 217 (1983)
- State v. Jones, 2002-Ohio-6045 (8th Dist.)
- State v. Jones, 2003-Ohio-4397 (8th Dist.)
- State v. Jones, 2003-Ohio-6458
- State v. Jones, 2004-Ohio-3868 (8th Dist.)