

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-170485
Respondent-Appellee,	:	TRIAL NO. B-1100881
vs.	:	<i>JUDGMENT ENTRY.</i>
MICHAEL THOMPSON,	:	
Petitioner-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Petitioner-appellant Michael Thompson appeals from the Hamilton County Common Pleas Court's judgment dismissing his petition under R.C. 2953.21 et seq. for postconviction relief. We affirm that judgment, because the court had no jurisdiction to entertain the petition.

Thompson was convicted in 2011 of murder and having weapons while under a disability. We affirmed his convictions on direct appeal. *State v. Thompson*, 1st Dist. Hamilton No. C-110580 (Oct. 17, 2012), *appeals not accepted*, 134 Ohio St.3d 1485, 2013-Ohio-902, 984 N.E.2d 29.

In 2016, Thompson filed with the common pleas court a postconviction petition seeking relief from his convictions on the grounds that he was actually innocent of the offenses, that the count of the indictment charging him with murder had been defective, and that he had been denied the effective assistance of trial counsel. In this appeal, he

advances four assignments of error that essentially restate his postconviction claims and may thus be read together to challenge the common pleas court's dismissal of his petition. We overrule the assignments of error.

The postconviction statutes did not confer upon the common pleas court jurisdiction to entertain Thompson's postconviction claims. He filed his petition well after the time prescribed by R.C. 2953.21(A)(2) had expired. And he failed to satisfy the jurisdictional requirements for entertaining a late postconviction claim, when the record does not demonstrate that, but for the claimed constitutional violations, "no reasonable factfinder would have found [him] guilty of the offense[s] of which [he] was convicted." See R.C. 2953.23(A)(1)(b).

Nor were Thompson's convictions subject to correction under the jurisdiction to correct a void judgment. See *State ex rel. Cruzado v. Zaleski*, 111 Ohio St.3d 353, 2006-Ohio-5795, 856 N.E.2d 263, ¶ 18-19. His postconviction claims, even if demonstrated, would not have rendered his convictions void. See *Dunbar v. State*, 136 Ohio St.3d 181, 2013-Ohio-2163, 992 N.E.2d 1111, ¶ 14-15 (noting the "traditional[]" rule that, except with certain sentencing errors, a judgment is not void unless "a court acts without subject-matter jurisdiction"); *State v. Wurzelbacher*, 1st Dist. Hamilton No. C-130011, 2013-Ohio-4009, ¶ 8; *State v. Grant*, 1st Dist. Hamilton No. C-120695, 2013-Ohio-3421, ¶ 9-16 (holding that a judgment of conviction is void only to the extent that a sentence is unauthorized by statute or does not include a statutorily mandated term or if the trial court lacks subject-matter jurisdiction or the authority to act). See also *Midling v. Perrini*, 14 Ohio St.2d 106, 107, 236 N.E.2d 557 (1968) (holding that a defect in an indictment does not render a conviction void); *State v. Hayes*, 1st Dist. Hamilton No. C-130450, 2014-Ohio-1263, ¶ 5 (holding that ineffective assistance of counsel does not render a conviction void).

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Because the common pleas court had no jurisdiction to entertain Thompson's postconviction claims, his petition was subject to dismissal without a hearing. *See* R.C. 2953.21(D) and 2953.23(A). Accordingly, we affirm the court's judgment dismissing the petition.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., ZAYAS and MILLER, JJ.

To the clerk:

Enter upon the journal of the court on November 30, 2018
per order of the court_____.

Presiding Judge