

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

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| STATE OF OHIO, | : | APPEAL NOS. C-180043 |
| | | C-180048 |
| Respondent-Appellee, | : | TRIAL NO. B-1202504A |
| vs. | : | |
| JAMES DABNEY, | : | <i>JUDGMENT ENTRY.</i> |
| Petitioner-Appellant. | : | |

We consider these appeals 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 James Dabney appeals the Hamilton County Common Pleas Court's judgment denying his 2017 petition under R.C. 2953.21 et seq. for postconviction relief. We dismiss the case numbered C-180048 as duplicative of the case numbered C-180043. And in the case numbered C-180043, we affirm the court's judgment as modified to dismiss the petition.

Dabney was convicted in 2014 of money laundering, theft, and telecommunications fraud. He unsuccessfully challenged his convictions on direct appeal and in postconviction petitions filed in 2016 and 2017. *See State v. Dabney*, 1st Dist. Hamilton No. C-140575, 2015-Ohio-4142, *appeals not accepted*, 144 Ohio St.3d 1479, 2016-Ohio-462, 45 N.E.3d 245; *State v. Dabney*, 1st Dist. Hamilton No. C-160821 (Sept. 28, 2018).

In his 2017 postconviction petition, Dabney sought relief from his convictions on the grounds that his trial counsel had operated under a conflict of interest, constituting a fraud upon the court and resulting in a denial of the effective assistance of counsel, and that his trial counsel had also been ineffective concerning the state's plea offers. In this

appeal, Dabney advances three assignments of error that, read together, challenge the denial of his petition without a hearing. We overrule the assignments of error.

The postconviction statutes did not confer upon the common pleas court jurisdiction to entertain Dabney'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 Dabney'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 *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).

Because the common pleas court had no jurisdiction to entertain Dabney's postconviction claims, his petition was subject to dismissal without a hearing. See R.C. 2953.21(D) and 2953.23(A). Accordingly, upon the authority of App.R. 12(A)(1)(a), we modify the judgment appealed to reflect the dismissal of the petition. And we affirm the judgment as modified.

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.

MOCK, P.J., ZAYAS and MYERS, JJ.

To the clerk:

Enter upon the journal of the court on May 3, 2019,
per order of the court_____.

Presiding Judge