

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO, :
 :
 Plaintiff-Appellee, :
 : No. 109019
 v. :
 :
 ANDREY L. BRIDGES, :
 :
 Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: April 23, 2020

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-13-574201-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and Anthony T. Miranda, Assistant Prosecuting
Attorney, *for appellee*.

Andrey L. Bridges, *pro se*.

MARY EILEEN KILBANE, J.:

{¶ 1} Defendant-appellant, Andrey L. Bridges (“Bridges”), appeals the denial of his postconviction motion to proceed with findings of fact and conclusions of law. For the reasons that follow, we affirm the decision of the trial court.

Prior Procedural History

{¶ 2} Bridges has an extensive history with this court stemming from numerous appeals in regards to his 2013 conviction for murder. We have summarized that history before as follows:

In November 2013, a jury convicted Bridges of murder, felonious assault, tampering with evidence, and abuse of a corpse in relation to the death of Carl Acoff. The trial court sentenced Bridges to an aggregate term of life in prison with the possibility of parole after 18 years and six months. Bridges filed a direct appeal, arguing his convictions for murder and felonious assault were against the manifest weight of the evidence and the evidence was insufficient to sustain a conviction for tampering with evidence and abuse of a corpse. We affirmed Bridges's convictions. *State v. Bridges*, 8th Dist. Cuyahoga No. 100805, 2014-Ohio-4570 ("*Bridges I*"); see *State v. Bridges*, 8th Dist. Cuyahoga No. 100805, 2015-Ohio-1447 (denying Bridges's application for reopening his appeal).

In July 2014, Bridges filed a petition for postconviction relief, arguing ineffective assistance of counsel, his convictions were not supported by sufficient evidence, and prosecutorial misconduct. While Bridges's direct appeal was pending, the trial court denied his petition for postconviction relief without a hearing and issued findings of fact and conclusions of law supporting the denial. Bridges appealed these rulings in two cases, both of which were dismissed for failure to file the record. *State v. Bridges*, 8th Dist. Cuyahoga Nos. 101938 (Oct. 1, 2014), and 101942 (Oct. 31, 2014).

In March 2015, Bridges filed a petition to vacate or set aside his judgment of conviction or sentence, arguing ineffective assistance of counsel, the trial court lacked subject matter jurisdiction, speedy trial violations, and prosecutorial misconduct. The trial court denied Bridges's petition without a hearing. In May 2015, Bridges filed a motion for new trial, arguing his convictions were not supported by sufficient evidence, the trial court abused its discretion by admitting prejudicial photographic evidence, and his \$5 million bond was unconstitutional. The trial court denied Bridges's motion without a hearing.

Bridges appealed these two rulings, and in December 2015, we affirmed the same. *State v. Bridges*, 8th Dist. Cuyahoga Nos. 102930 and

103090, 2015-Ohio-5428 (“*Bridges II*”). In affirming the trial court's judgment, we determined that Bridges's motion for new trial was untimely and not based on newly discovered evidence. In addition, we concluded that the claims asserted in Bridges's postconviction motion to vacate or set aside judgment of conviction or sentence were barred by res judicata. *Id.*

In August 2015, while his appeal in *Bridges II* was pending, Bridges filed a motion for leave to file a delayed motion for new trial. In May 2016, Bridges filed a “motion for leave with memorandum in support to correct error R.C. 2903.02(A) conviction due to insufficient evidence” (“motion to correct error”). The trial court denied both motions without a hearing. Bridges appealed the trial court's rulings, and in October 2016, we affirmed the trial court. *State v. Bridges*, 8th Dist. Cuyahoga Nos. 103634 and 104506, 2016-Ohio-7298 (“*Bridges III*”).

In *Bridges III*, we sua sponte consolidated Bridges's appeal in Appeal No. 103634 and found that the journal entries from which Bridges had appealed were not final, appealable orders. *Id.* at ¶ 10-12. In affirming the trial court's denial of Bridges's motion for leave to file a delayed motion for new trial, we found Bridges failed to provide any new evidence supporting his ineffective assistance, actual innocence, and error of law claims that was not previously known or available to him during his trial or during the time period immediately following his conviction, and nevertheless, his claims are barred by res judicata. *Id.* at ¶ 24-28. Additionally, we found Bridges's motion to correct error was barred by res judicata. *Id.* at ¶ 38.

State v. Bridges, 8th Dist. Cuyahoga No. 106653, 2018-Ohio-4113, ¶ 2-7 (“*Bridges IV*”).

{¶ 3} In December 2017, Bridges filed a motion to leave to file void or voidable judgment, arguing that the trial court considered the status of the victim as transgender and this consideration rendered his sentence contrary to law. He also claimed that this consideration violated his due process rights. The trial court denied Bridges's motion and Bridges appealed. In *Bridges IV*, we affirmed the trial court, finding that Bridges's motion was an untimely petition for postconviction

relief, and that, even if it were not untimely, his claims were barred by res judicata.
Id.

The present case

{¶ 4} On April 8, 2019, Bridges filed a “motion to rebut violent offender database and duties and raise factual innocence.” The trial court denied that motion on April 24, 2019. Bridges did not appeal. On June 26, 2019, Bridges filed a motion to proceed with findings of fact and conclusions of law arguing that the court was required to provide reasons for denying his April 8 motion. The trial court denied his motion for findings of fact and conclusions of law on July 16, 2019. Bridges now appeals that denial. He provides two assignments of error for our review.

Assignment of Error I

Appellant is denied his Equal Protection and Due process of Law of the 14th Amendment, to the United States Constitution and Article 1, Section 10 and 16 of the Ohio Constitution and he is in fact-Factual Innocent of the Crime, Elements and Conviction

Assignment of Error II

The trial court committed error by not issuing a complete finding of fact and conclusion of law setting forth the reason why relief is denied.

{¶ 5} Both assignments can be addressed together.

Successive Petition

{¶ 6} Bridges motion is a successive petition for postconviction relief; as a result, the trial court was not required to issue findings of fact and conclusions of law.

{¶ 7} Bridges titled his motion “A motion to rebut violent offender database and duties and raise factual innocence.” This is a motion to correct or vacate his sentence and should be treated as a postconviction petition as a result. “[A] vaguely titled motion to correct or vacate a sentence may be construed as a petition for post-conviction relief where the motion was filed subsequent to a direct appeal, claimed a denial of constitutional rights, sought to render the judgment void, and asked for a vacation of the judgment and sentence.” *State v. Meincke*, 8th Dist. Cuyahoga No. 96407, 2011-Ohio-6473, quoting *State v. Caldwell*, 3d Dist. Paulding No. 11-05-07, 2005-Ohio-5375, citing *State v. Reynolds*, 79 Ohio St.3d 158, 679 N.E.2d 1131 (1997), syllabus. Bridges’s motion meets all four requirements.

{¶ 8} Because Bridges has filed prior petitions for postconviction relief, this petition is deemed a successive petition. The Ohio Supreme Court has held that a trial court “has no duty to issue findings of fact and conclusions of law on successive or untimely petitions for post-conviction relief.” *State ex rel. George v. Burnside*, 118 Ohio St.3d 406, 2008-Ohio-2702, 889 N.E.2d 533, ¶ 6; *see also State ex rel. Reynolds v. Basinger*, 99 Ohio St.3d 303, 2003-Ohio-3631, 791 N.E.2d 459, ¶ 6-7. As a result, the trial court acted within its discretion to not issue findings of fact and

conclusions of law. *See State v. Williamson*, 8th Dist. Cuyahoga No. 104294, 2016-Ohio-7053.

{¶ 9} For the foregoing reasons, we affirm the decision of the trial court.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE, JUDGE

MARY J. BOYLE, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR