

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

STATE OF OHIO,	:	APPEAL NO. C-070763
Respondent-Appellee,	:	TRIAL NO. B-97006893-A
vs.	:	
HASSAN DAVENPORT,	:	<i>JUDGMENT ENTRY.</i>
Petitioner-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Hassan Davenport presents on appeal four assignments of error that, when reduced to their essence, challenge the Hamilton County Common Pleas Court’s judgment overruling his “Motion to Correct a Void Sentence.” We overrule the assignments of error and affirm the court’s judgment.

Davenport was convicted in 1998 on two counts of aggravated robbery. He unsuccessfully challenged his convictions in appeals to this court and to the Ohio Supreme Court² and in three postconviction motions. He appeals here from the judgment overruling his October 2007 “Motion to Correct a Void Sentence.”

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² See *State v. Davenport* (July 30, 1999), 1st Dist. No. C-980516, discretionary appeal not allowed (1999), 87 Ohio St.3d 1451, 719 N.E.2d 967.

Davenport’s “Motion” was essentially a postconviction petition, reviewable under the standards provided by R.C. 2953.21 et seq.³ In his petition, he sought resentencing on the ground that the trial court had failed to conduct a “consistency of sentencing analysis.” But he filed his petition well after the time afforded under R.C. 2953.21(A)(2). And he did not, as he could not, demonstrate that “but for [the alleged sentencing error], no reasonable factfinder would have found [him] guilty of the offense[s] of which [he had been] convicted.”⁴ Because Davenport failed to satisfy the time restrictions of R.C. 2953.21 and the jurisdictional requirements of R.C. 2953.23, the common pleas court had no jurisdiction to entertain his postconviction petition.⁵ Accordingly, the court properly denied the petition.

We, therefore, affirm the common pleas court’s judgment.

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

HILDEBRANDT, P.J., PAINTER and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on June 18, 2008

per order of the Court _____.
Presiding Judge

³ See *State v. Schlee*, 117 Ohio St.3d 153, 2008-Ohio-545, 882 N.E.2d 431, at ¶12.

⁴ See R.C. 2953.23(A)(1)(b).

⁵ See R.C. 2953.23(A).