

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

STATE OF OHIO,	:	APPEAL NO. C-080262
	:	TRIAL NO. B-0510356
Respondent-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
VIRGIL TRIBBLE,	:	
Petitioner-Appellant.	:	

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

Petitioner-appellant, Virgil Tribble, presents on appeal a single assignment of error, challenging the Hamilton County Common Pleas Court’s judgment denying his petition for postconviction relief. We affirm the court’s judgment.

Tribble filed his petition well after the time prescribed by R.C. 2953.21(A)(2). He did not demonstrate that he had been unavoidably prevented from discovering the facts upon which his petition depended. Nor did he predicate his claims upon a new or retrospectively applicable federal or state right recognized by the United States Supreme Court since the prescribed time had expired. Thus, R.C. 2953.23 precluded the common pleas court from entertaining his petition.

We, therefore, overrule the assignment of error and affirm the court’s judgment.

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

**OHIO FIRST DISTRICT COURT OF APPEALS**

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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.

**SUNDERMANN, P.J., PAINTER and WINKLER, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on November 26, 2008  
per order of the Court \_\_\_\_\_.  
Presiding Judge