

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

STATE OF OHIO,	:	APPEAL NO. C-150461
Respondent-Appellee,	:	TRIAL NO. B-1302369
vs.	:	<i>JUDGMENT ENTRY.</i>
DANIEL BRONSON,	:	
Petitioner-Appellant.	:	

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

Petitioner-appellant Daniel Bronson appeals from the Hamilton County Common Pleas Court’s judgment denying his postconviction petition. We affirm the court’s judgment as modified.

Bronson was convicted in 2013 upon his guilty plea to robbery and an accompanying firearm specification. He did not appeal his conviction, but instead filed, in 2015, a petition under R.C. 2953.21 et seq. for postconviction relief and a Crim.R. 32.1 motion to withdraw his guilty plea.

In this appeal from the denial of his postconviction petition, Bronson advances four assignments of error. The first assignment of error challenges the common pleas court’s failure to entertain or conduct a hearing on his petition. The other assignments of error essentially restate the three claims advanced in the petition. We address the assignments of error together and overrule them upon our determination that the common pleas court had no jurisdiction to entertain those claims.

In his petition, Bronson sought relief from his conviction on the grounds that his guilty plea was not knowing, voluntary, or intelligent; that his trial counsel was constitutionally ineffective in counseling his plea; and that he was denied due process and equal protection by the trial court's failure to advise him concerning his appeal rights. Bronson filed his petition well after the time prescribed by R.C. 2953.21(A)(2) had expired. The jurisdiction of a common pleas court to entertain a late postconviction petition is closely circumscribed: the petitioner must show either that he was unavoidably prevented from discovering the facts upon which his postconviction claim depends, or that his claim is predicated upon a new and retrospectively applicable right recognized by the United States Supreme Court since the time for filing the claim had expired; and he must show "by clear and convincing evidence that, but for constitutional error at trial, no reasonable factfinder would have found [him] guilty of the offense of which [he] was convicted \* \* \*." R.C. 2953.23(A)(1).

The record does not demonstrate that, but for the alleged constitutional deprivations, no reasonable factfinder would have found Bronson guilty of robbery and the firearm specification. R.C. 2953.23(A)(1)(b). Therefore, the postconviction statutes did not confer upon the common pleas court jurisdiction to entertain Bronson's late postconviction claims.

And while a court always has 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, none of Bronson's postconviction claims, even if demonstrated, would have rendered his conviction void. *See Dunbar v. State*, 136 Ohio St.3d 181, 2013-Ohio-2163, 992 N.E.2d 1111, ¶ 14-15 (holding that a guilty plea is voidable, not void, when a trial court has subject-matter jurisdiction, but errs in the exercise of that jurisdiction,

based on 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).

Because the common pleas court had no jurisdiction to entertain Bronson’s postconviction claims, his petition was subject to dismissal. *See* R.C. 2953.21(C) and 2953.23(A). And because the petition was subject to dismissal, Bronson was not entitled to an evidentiary hearing. *See* R.C. 2953.21(C).

Accordingly, upon the authority of App.R. 12(A)(1)(a), we modify the judgment appealed from to reflect a dismissal of the petition. And we affirm the judgment as modified.

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

**FISCHER, P.J., HENDON and MOCK, JJ.**

To the clerk:

Enter upon the journal of the court on October 5, 2016  
per order of the court. \_\_\_\_\_.

Presiding Judge