

FILED

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Clerk of the  
Appellate Courts

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs June 16, 2026

**MENA MEKHAEN BOUTROUS v. STATE OF TENNESSEE**

**Appeal from the Criminal Court for Davidson County**  
**No. 2014-D-3002 Khadija Lanice Babb, Judge**

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**No. M2025-01076-CCA-R3-PC**

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Petitioner, Mena Mekhaen Boutrous, appeals the post-conviction court's denial of his motion for due process tolling of the Post-Conviction Procedure Act's statute of limitations. On appeal, Petitioner argues that he is entitled to due process tolling because his mental health issues rendered him incompetent during the one-year limitations period. Upon review of the record and applicable law, we affirm the judgment of the post-conviction court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed**

ROBERT L. HOLLOWAY, JR., J., delivered the opinion of the court, in which J. ROSS DYER and MATTHEW J. WILSON, JJ., joined.

Vakessha Baker Hood, Franklin, Tennessee, for the appellant, Mena Mekhaen Boutrous.

Jonathan Skrmetti, Attorney General and Reporter; Caroline W. Weldon, Assistant Attorney General; Glenn R. Funk, District Attorney General; and Roger D. Moore, Deputy District Attorney General, for the appellee, State of Tennessee.

**OPINION**

**Factual and Procedural Background**

In October 2016, Petitioner was convicted after a bench trial of two counts of aggravated arson and one count of attempted first-degree murder. *State v. Boutrous*, No. M2017-00835-CCA-R3-CD, 2018 WL 935471, at \*1 (Tenn. Crim. App. Feb. 16, 2018), *perm. app. denied* (Tenn. June 6, 2018). The trial court sentenced Petitioner to an effective

twenty years' incarceration. *Id.* Petitioner appealed, and this court affirmed the convictions; thereafter, our supreme court denied permission to appeal on June 6, 2018. *Id.*

On March 1, 2024, Petitioner delivered to the Tennessee Department of Correction (TDOC) a pro se "motion to toll one-year limitations period to file for post-conviction relief," in which he argued that he was mentally incompetent during the relevant limitations period. Petitioner stated that he had schizophrenia and had been "involuntarily committed numerous times and has demonstrated that he is unable to handle his personal affairs." Petitioner said that he was under psychiatric care and had been confined in "special mental health housing units" and that he "has a documented history of medication non-compliance and instances of forced medication." Petitioner stated that he suffered from episodes of psychosis in which he believed someone was "out to kill him"; that he often required assistance to carry out daily tasks "such [as] understanding things that he must do to handle personal affairs"; and that "[v]oices torment [] Petitioner frequently and render[] him incapable of rational thought."

Petitioner stated that he was assigned to a "supportive living unit" for prisoners with serious mental health issues. He noted that he could not obtain affidavits from the unit's mental health staff unless they were subpoenaed, but he attached to the motion some of his medical records prior to his arrest.

The attached documents, which were from Centerstone Community Mental Health and dated 2013 and 2014, reflected that, in January 2013, Petitioner was diagnosed with "Schizophrenia, Paranoid Type" and cannabis abuse. Petitioner's brother and a friend attended his evaluation and reported that Petitioner had auditory hallucinations and paranoia and that he had a history of medication noncompliance.

Correct Care Solutions medical notes from the Davidson County jail noted on May 16, 2014, that Petitioner was observed to have "Chronic Simple Schizophrenia"; several records from 2015 and 2016 documented psychiatric medication management visits.

The post-conviction court appointed counsel, which we interpret as the court's construing the pro se motion as a petition for post-conviction relief. The post-conviction court ordered a limited hearing on the due process tolling issue. The record does not contain an amended petition or notice that no amended petition would be filed.

At the hearing, Petitioner entered as an exhibit twelve pages of medical records from July 2018 through May 2019. Post-conviction counsel argued that Petitioner was "up and down in compliance with his medication" and that, during the relevant period, Petitioner

was “suffering, struggling . . . to get his condition under control.” No other proof was introduced.

A TDOC health services referral form dated July 20, 2018, noted that Petitioner was “[n]ot taking medication as prescribed by doctor. Has not shown up for med cart since 6/11/18 thru 6/16/17 [sic] for Effexor, Benadryl, Zyprexa.” The form had a box checked to send a referral form to the behavioral health coordinator, and it was noted as received on July 20, 2018.

An August 23, 2018 TDOC psychiatry progress note reflected that Petitioner was oriented to person, place, time, and situation; that his memory was “intact” and his speech was “appropriate”; that he did not report any problems with sleep, hallucinations, or delusions; that his affect was “appropriate”; that he was not a danger to himself or others; and that he was compliant with his medications. A November 15, 2018 progress note reflected that Petitioner’s condition was unchanged, but Petitioner wanted to change one of his medications. The provider ordered a substitute medication. February 8, 2019 and May 1, 2019 progress notes reflected that Petitioner’s condition was unchanged. All the progress notes stated that Petitioner’s level of functioning for “daily tasks” was “Independent.”

A January 3, 2019 mental health screening report reflected that Petitioner had a “current mental health complaint” and was prescribed psychotropic medication for mental health problems. It was noted that Petitioner did not report suicidal ideations or previous suicidal behavior. The report also stated that Petitioner did not have a history of treatment for substance use or inpatient or outpatient psychiatric treatment.

A March 30, 2019 TDOC health services form noted that Petitioner was noncompliant with his medications and that Petitioner should be referred to a mental health provider.

The post-conviction court filed an order denying the motion, finding that, although Petitioner established that he suffered from a mental illness, he failed to show by clear and convincing evidence that he was unable to manage his personal affairs or comprehend his legal rights and responsibilities during the one-year period between February 16, 2018, and February 16, 2019.

### **Analysis**

On appeal, Petitioner claims that his schizophrenia and documented medication noncompliance rendered him mentally incompetent during the limitations period and that,

accordingly, he is entitled to due process tolling of the statute of limitations. The State argues that the post-conviction court properly denied the motion. We agree with the State.

The Post-Conviction Procedure Act provides relief “when the conviction or sentence is void or voidable because of the abridgement of any right guaranteed by the Constitution of Tennessee or the Constitution of the United States.” Tenn. Code Ann. § 40-30-103. “Time is of the essence of the right to file a petition for post-conviction relief[.]” Tenn. Code Ann. § 40-30-102(a). A petition for post-conviction relief must be filed “within one (1) year of the date of the final action of the highest state appellate court to which an appeal is taken or, if no appeal is taken, within one (1) year of the date on which the judgment became final.” *Id.*

Whether the post-conviction statute of limitations should be tolled is a mixed question of law and fact that we review *de novo*. *Bush v. State*, 428 S.W.3d 1, 16 (Tenn. 2014). The post-conviction court’s findings of fact are binding on this court unless the evidence preponderates against them. *Id.* (citing *Smith v. State*, 357 S.W.3d 322, 336 (Tenn. 2011); *Dellinger v. State*, 279 S.W.3d 282, 294 (Tenn. 2009)).

Petitioner does not argue that any of the three statutory exceptions apply to his case. Tenn. Code Ann. § 40-30-102(b) (providing exceptions to the one-year limitations period for claims based upon newly recognized constitutional rights, new scientific evidence proving actual innocence, and sentences enhanced by previous convictions that were invalidated); *Whitehead v. State*, 402 S.W.3d 615, 622 (Tenn. 2013). Instead, Petitioner argues that he is entitled to due process tolling of the statute of limitations. For a petitioner to be entitled to due process tolling, a petitioner must show “(1) that he or she has been pursuing his or her rights diligently, and (2) that some extraordinary circumstance stood in his or her way and prevented timely filing.” *Whitehead*, 402 S.W.3d at 631. Our supreme court has recognized three such extraordinary circumstances: (1) claims for relief that arise after the statute of limitations has expired; (2) mental incompetence preventing a petitioner from complying with statutory deadlines; or (3) attorney misconduct. *See Williams v. State*, 44 S.W.3d 464, 470-71 (Tenn. 2001); *Seals v. State*, 23 S.W.3d 272, 277-80 (Tenn. 2000). The court in *Whitehead* cautioned that due process tolling “must be reserved for those rare instances where—due to circumstances external to the party’s own conduct—it would be unconscionable to enforce the limitation period against the party and gross injustice would result.” *Whitehead*, 402 S.W.3d at 631-32 (quoting *Harris v. Hutchinson*, 209 F.3d 325, 330 (4th Cir. 2000)).

In *State v. Nix*, our supreme court held “that due process requires tolling of the post-conviction statute of limitations only if a petitioner shows that he is unable either to manage his personal affairs or to understand his legal rights and liabilities.” *State v. Nix*, 40 S.W.3d

459, 462 (Tenn. 2001). The court noted that “the mere assertion of a psychological problem” was not sufficient to require tolling because “mental illness is not the equivalent of mental incompetence.” *Id.* at 463.

In *Reid ex rel. Martiniano v. State*, 396 S.W.3d 478, 518 (Tenn. 2013), a case in which the petitioner sought to withdraw a post-conviction petition, our supreme court held that “henceforth, all competency determinations made in the context of post-conviction proceedings shall be conducted using the competency standards contained in Tenn. Sup. Ct. R. 28, § 11 and discussed in this opinion.” Our supreme court explained that Rule 28, section 11 would apply “not only when a petitioner seeks to withdraw a previously-filed petition for post-conviction relief, but also when a petitioner seeks to toll the statute of limitations in [Tennessee] Code [Annotated section] 40-30-102(a) due to incompetency[.]” *Id.* at 512. Tennessee Supreme Court Rule 28, section 11(B)(1) provides:

The standard for determining competency of a petitioner to withdraw a post-conviction petition and waive further post-conviction relief under this section is: whether the petitioner possesses the present capacity to appreciate the petitioner’s position and make a rational choice with respect to continuing or abandoning further litigation or on the other hand whether the petitioner is suffering from a mental disease, disorder, or defect which may substantially affect the petitioner’s capacity.

Tenn. Sup. Ct. R. 28, § 11(B)(1). A petitioner bears the burden of proving incompetency by clear and convincing evidence. Tenn. Code Ann. § 40-30-110(f) (2019); *see also Reid v. State*, 197 S.W.3d 694, 703 (Tenn. 2006).

In this case, Petitioner failed to establish by clear and convincing evidence that he was unable to manage his personal affairs or to understand his legal rights and liabilities during the relevant one-year period. Petitioner did not present any evidence other than the limited TDOC medical records, which reflected that, although Petitioner was not always compliant with his medications, he was functioning independently relative to daily tasks. The four progress notes between August 2018 and May 2019 documented that Petitioner was oriented to person, place, time, and situation; that his memory was “intact” and his speech was “appropriate”; that he did not report any problems with sleep, hallucinations, or delusions; that his affect was “appropriate”; that he was not a danger to himself or others; and that on those dates he was compliant with his medications. Petitioner only established that he has a mental illness, not that he was incompetent, and the trial court properly denied his motion. Petitioner has not shown that mental incompetence prevented him from complying with the statutory deadline, and he is not entitled to relief on this basis. *See Williams*, 44 S.W.3d at 470-71.

**Conclusion**

In light of the foregoing, the judgment of the post-conviction court is affirmed.

*s/Robert L. Holloway, Jr.*  
ROBERT L. HOLLOWAY, JR., JUDGE