[Cite as *State v. Heckathorn*, 2020-Ohio-1107.]

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
COLUMBIANA COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

DANIELLE L. HECKATHORN,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY
Case No. 19 CO 0004

Criminal Appeal from the
Court of Common Pleas of Columbiana County, Ohio
Case No. 2015-CR-447

BEFORE:
Carol Ann Robb, Cheryl L. Waite, David A. D'Apolito, Judges.

JUDGMENT:
Affirmed.

Atty. Robert L. Herron, Prosecuting Attorney, *Atty*. *Ryan P. Weikart*, Assistant Prosecuting Attorney, 105 South Market Street, Lisbon, Ohio 44432, for Plaintiff-Appellee and

Atty. Jeffrey M. Brandt, 629 Main Street, Suite B, Covington, Kentucky 41011 for Defendant-Appellant.

Dated: February 28, 2020

Robb, J.

{¶1} Defendant-Appellant Danielle Heckathorn appeals the decision of Columbiana County Common Pleas Court dismissing her petition for post-conviction relief. Two issues are raised in this appeal. The first is whether the trial court abused its discretion in dismissing the petition. The second issue is whether the trial court properly made findings of fact and conclusions of law as required by R.C. 2953.21(D) when it dismissed the petition. For the reasons expressed below, the trial court's decision is affirmed.

Statement of the Facts and Case

{¶2} The following facts are taken from our direct appeal in *State v. Heckathorn*, 7th Dist. Columbiana No. 17 CO 0011, 2019-Ohio-1086.

{¶3} On Sunday, March 8, 2015, a distressed man appeared at the Columbiana County Sheriff's Department to report that his neighbor, Daniel Landsberger, confessed to killing a black male.

{¶4} A team from the sheriff's department went to Landsberger's trailer on March 9; Landsberger, who had four scratches on the side of his neck, provided consent to search. The remains of a mattress and box spring were found smoldering in a fire pit in the yard. In the trailer, officers discovered blood in a bedroom containing an empty bed frame, and there was blood spatter on the walls and "cast-off" blood on the ceiling. An area of the carpet was also saturated with blood. In Landsberger's SUV, officers found a small area saturated with blood in the cargo hold. Smears of blood were discovered on both rear passenger lower door frames and the inside of the back hatch. In the shed, a bag of dog food contained bloody items such as bed sheets, plastic sheeting, a garbage bag, and clothing (with an open condom in the pocket). Another condom and wrapper were recovered from the bedroom floor. No body or bloody weapon was discovered on the property.

{¶5} Appellant, who was identified as Landsberger's female friend, was interviewed on Tuesday, March 10, 2015. During that interview she stated that when

Landsberger picked her up on Thursday he had a black male named “Q” (the victim) in his car. She indicated she and Landsberger used cocaine that night which she believed the victim provided. She asserted the condom in the bedroom may have been hers but was not from that night. She stated that when Q and Landsberger were taking her home, Landsberger stopped the car, told the victim to get out of the car, and proceeded to beat him; the victim had a bloody nose and Landsberger had scratches on his neck. After the fight, the two men returned acting friendly to each other and Landsberger took Appellant home.

{¶6} When a detective expressed he did not believe her story, Appellant admitted she had intercourse with both Landsberger and the victim that night, stating her services constituted her payment for drugs. She said Landsberger “ripped” the victim out of the car and beat him up in order to rob him; she also said the victim lost the crack cocaine during the fight, but they subsequently found it. She claimed the beating occurred at a pull-off for a recreation area, pointed out the area on a map, and said she could bring them to the location. She disclosed there was blood on the snow. She insisted the victim was awake when they dropped her off at home around 2:00 a.m.

{¶7} The detective showed Appellant a photograph of Quinn Wilson; she identified Quinn Wilson as Q, the victim. She then announced that she had the victim's phone, stating she used it because her phone had no service. When asked if she deleted messages from the victim's phone, she assured the detective she had not.

{¶8} Appellant then added a new part to her story; she said Landsberger instructed her to drive the car down the road during the beating. When confronted with her different versions of the story, she stated that she thought Landsberger was joking when he texted her to say he would beat the victim up and “take his shit.” She subsequently admitted going to Landsberger's residence a second time, after having sex in the bedroom but before the robbery.

{¶9} A detective brought Appellant to the recreation area so she could direct him to the pull-off area where the incident allegedly occurred. A search was conducted that day and the next day, but no evidence of an altercation was uncovered.

{¶10} On Wednesday, March 11, 2015, the victim’s body was found on a hill by a dirt road in Columbiana County, Ohio. The victim’s body was cut in half. The location of

the body was 1.7 miles from where Appellant resided and 8.8 miles from Landsberger's trailer.

{¶11} The medical examiner concluded someone cut the body in half at the waist after death, using a sharp knife-like instrument and then a saw. The victim suffered multiple (at least 19) chopping "blunt-force injuries" to the head with "features of sharp-force injury" caused by an instrument such as a hatchet. The blows caused: a broken lower jaw on the left side; a left forehead injury; a base skull fracture which radiated from a hit on the top of the head; open skull fractures oozing brain tissue; seven overlapping blows to the right forehead and eye; blows to the right back of the head; crushed bones of the nose and cheeks; and a split maxilla caused by two chops to the upper lip. Death occurred within seconds to a few minutes after these blows. The victim also suffered a fractured right forearm prior to death which was not caused by a sharp object (but could have been caused by the opposite side of the sharp-edged object). The medical examiner found no evidence of blows from a fist.

{¶12} The blood evidence from Landsberger's property matched the victim's DNA. Appellant was a major contributor to the DNA on the condom from the bedroom floor. DNA on the condom from the pocket of the victim's sweatshirt was a mixture consistent with the victim, Landsberger, and Appellant.

{¶13} The police conducted a second interview of Appellant on April 24, 2015. Appellant mentioned a conversation on robbing the victim they had in person before the texts on the subject. In describing the victim's condition after the robbery, she said he "was messed up" but not "terminal." She said Landsberger asked the victim if he wanted to go to the hospital.

{¶14} The data recovered from the victim's cell phone included forty-four contacts between Appellant and the victim. Some texts were able to be recovered from Appellant and Landsberger's cell phones. The texts that were recovered suggest that the victim and Appellant discussed a drug dealing operation where Appellant and Landsberger would provide the victim a place to operate his drug business. While those texts were occurring Appellant and Landsberger were separately texting about the victim and Appellant was encouraging Landsberger to rob the victim. Besides texts, the phones also showed calls between Appellant and the victim and between Appellant and Landsberger.

{¶15} After receiving the information extracted from the three phones, the police conducted a third interview with Appellant. She reiterated her story that she only saw a fight and robbery at the recreation area. She expressed the robbery was not premeditated before the victim entered the car; she also said she was not aware Landsberger planned to hurt the victim. Some texts were then read to her to dispute this.

{¶16} When asked about the text telling Landsberger he may "have to knock him out in here," she claimed "in here" referred to the car at the recreation area, not while they were at the trailer. She denied being in the bedroom or present when Landsberger killed the victim, claiming he was alive when they brought her home sometime before 3:00 a.m. She remembered the text she had sent about a crowbar, noting the plan was to beat up the victim. Upon being asked why she had texted Landsberger to say the night did not go as planned, she replied, "I didn't expect him to beat the living shit out of the guy." After it was pointed out that she suggested the crowbar, she responded, "I'm thinking knock him out. Not beat 'em till he's almost dead." She said Landsberger was supposed to "conk 'em in the head a couple times and grab his stuff and we were gonna go."

{¶17} On November 18, 2015, Appellant was indicted on seven counts: (1) murder (for purposely causing the death of another by aiding and abetting Landsberger); (2) tampering with evidence (for deleting evidence from the victim's phone), a third degree felony; (3) conspiracy to commit robbery (for inflicting, attempting to inflict, or threatening physical harm while committing, attempting, or fleeing a theft offense), a third degree felony; (4) complicity to the same robbery (by aiding and abetting Landsberger), a second degree felony; and (5-7) obstructing justice (corresponding to the three police interviews), third degree felonies due to the type of offense being investigated.

{¶18} The case was tried to a jury. In addition to all of the evidence reviewed above, the state presented the testimony of a witness, Brandi Cope, who testified the victim was one of her drug dealers. She said he was not a typical dealer as he was caring and was not violent even when he was owed money. Although the victim was generous, she said he would not lend out his phone. She bought crack from the victim on the afternoon of March 5, 2015, hours before his death. She thereafter went to her uncle's residence where she saw Appellant. Appellant indicated she would see the victim that

night to repay a favor she owed him. Brandi Cope learned the victim was dead the next day.

{¶19} The jury found Appellant guilty of all charges. The court sentenced Appellant to: 15 years to life for murder; 12 months for tampering with evidence; 6 years for robbery; and 12 months on each of the three counts of obstructing justice. The conspiracy to commit robbery count was merged with the robbery count prior to sentencing. The court ordered the sentences to run consecutively for a total sentence of 25 years to life.

{¶20} Appellant filed a timely appeal raising six assignments of error. We affirmed the convictions, but remanded the case to the trial court for it to issue a nunc pro tunc sentencing entry incorporating the consecutive sentence findings made at the sentencing hearing. *Heckathorn*, 2019-Ohio-1086.

{¶21} Appellant filed a motion for post-conviction relief requesting an evidentiary hearing on October 30, 2018 and November 2, 2018. In addition to other arguments, Appellant asserted trial counsel was ineffective for failing to move for a change of venue based on the amount of pretrial publicity, for failing to introduce Brandi Cope's criminal record, and for failing to demonstrate how the prosecution engaged in misconduct as to the text messages that showcased the victim's drug use, which she claimed was in direct conflict with the coroner's report. Attached were statements of dates when media covered the murder, Brandi Cope's record, and text messages that were allegedly not disclosed that purportedly demonstrated the victim's drug use. Appellant requested an investigator to help her support her petition with evidence. Appellant also moved to have counsel appointed to represent her on her petition. 11/2/18 Motion.

{¶22} In response, the state filed a motion to dismiss. 11/28/18 Motion. It asserted Appellant failed to raise a sufficient constitutional challenge that would require a hearing. As to community bias, it argued the allegation is not a constitutional issue and furthermore, the trial court over saw the voir dire process and the record demonstrated the jury was not biased. As to Cope's testimony, the state noted that Cope appeared in jail clothes and testified as to her incarceration. The state asserted the arguments regarding Cope are unsubstantiated speculation. As to the text messages, the state asserted Appellant had access to all text messages through discovery. Furthermore, her

argument was based upon the meaning and context of the text messages and thus, did not provide a constitutional foundation for post-conviction. 11/28/18 Motion.

{¶23} The trial court dismissed the petition without an evidentiary hearing for the reasons stated in the state's dismissal motion. 12/27/18 J.E.

{¶24} Appellant timely appealed the trial court's decision.

First Assignment of Error

"The lower court erred by summarily dismissing Heckathorn's petition for post-conviction relief without an evidentiary hearing."

{¶25} Post-conviction relief is a collateral civil attack on a criminal judgment. *State v. Steffen*, 70 Ohio St.3d 399, 410, 639 N.E.2d 67 (1994). R.C. 2953.21 through R.C. 2953.23 govern petitions for post-conviction and provide that "any defendant who has been convicted of a criminal offense and who claims to have experienced a denial or infringement of his or her constitutional rights may petition the trial court to vacate or set aside the judgment and sentence." *State v. Martin*, 7th Dist. Mahoning No. 12 MA 167, 2013–Ohio–2881, ¶ 13.

{¶26} Our review of a trial court's denial of a petition for post-conviction relief is for an abuse of discretion. *State v. Gondor*, 112 Ohio St.3d 377, 2006-Ohio-6679, 860 N.E.2d 77, ¶ 58. Abuse of discretion connotes more than an error of law; it implies the trial court acted arbitrarily, unreasonably, or unconscionably. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶27} Regarding ineffective assistance of counsel claims and post-conviction relief, the Twelfth Appellate District has explained:

> Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *State v. Hendrix,* 12th Dist. Butler No. CA2012–05–109, 2012–Ohio–5610, ¶ 14. In turn, in a postconviction petition asserting ineffective assistance of counsel, the petitioner must first show that "his trial counsel's performance was deficient; and second, that the deficient performance prejudiced the defense to the point of depriving the appellant of a fair trial." *Widmer,* 2013–Ohio–62 at ¶ 132. A petitioner's failure to satisfy either prong is fatal to an ineffective assistance of counsel claim. *State v. Ayers,* 12th

> Dist. Warren Nos. CA2010–12–119 and CA2010–12–120, 2011–Ohio–4719, ¶ 49. A trial court's decision resolving a postconviction claim of ineffective assistance of counsel will be upheld absent an abuse of discretion when the trial court's finding is supported by competent and credible evidence. *State v. Davis,* 12th Dist. Butler No. CA2012–12–258, 2013–Ohio–3878, ¶ 14.

State v. McKelton, 12th Dist. Butler No. CA2015-02-028, 2015-Ohio-4228, ¶ 25.

{¶28} We have explained that generally, a claim of ineffective assistance of trial counsel should be raised in a direct appeal. *State v. Dillard*, 7th Dist. Jefferson No. 12 JE 29, 2014-Ohio-439, ¶ 21, 27; *State v. Delgado*, 7th Dist. Mahoning No. 15 MA 26, 2015-Ohio-5006, ¶ 18. A trial court properly dismisses a petition for post-conviction relief based on res judicata "when the defendant, represented by new counsel on direct appeal, fails to raise therein the issue of competent trial counsel and the issue could fairly have been determined without resort to evidence outside the record." *State v. Carosiello*, 7th Dist. Columbiana No. 18 CO 0018, 2019-Ohio-2705, ¶ 28, quoting *State v. Sturgill*, 12th Dist. Clermont Nos. CA2014-01-003 and CA2014-07-049, 2014-Ohio-5082, ¶ 13.

{¶29} Here, the claim of ineffective assistance of counsel is based on trial counsel's failure to move for a change of venue, failure to obtain Brandi Cope's record, and failure to raise prosecutorial misconduct by failing to disclose all text messages recovered from the victim's phone. The evidence supporting these allegations of ineffective assistance of counsel are alleged to be outside the record. Regarding venue, Appellant asserts there was a basis to move for change of venue because of extensive pretrial coverage of the crime. Regarding Cope's record, Appellant claims the witness' criminal record is outside the record on appeal. As to the text messages, Appellant claims that there were text messages indicating the victim's drug use, which was not disclosed to her and were in conflict with the coroner's report.

{¶30} Starting with venue, the news articles and reports referenced in her petition are outside the record and thus, the issue is potentially a post-conviction issue. That said, as the state points out, the Ohio Supreme Court has stated that the "voir dire examination provides the best test as to whether adverse publicity necessitates a change of venue." *State v. Issa*, 93 Ohio St.3d 49, 62, 752 N.E.2d 904 (2001). Accordingly, the issue was

not a matter for post-conviction relief and is barred by res judicata since the voir dire transcript is part of the record.

{¶31} Regardless, even if post-conviction is the proper avenue for the argument raised, the trial court did not abuse its discretion in dismissing the petition based on this claim. We have explained that a trial court is not required to grant a change of venue merely because of extensive pretrial coverage. *State v. Todd*, 7th Dist. Columbiana No. 12 CO 28, 2015-Ohio-2682, ¶ 17, citing *State v. McKnight,* 107 Ohio St.3d 101, 2005–Ohio–6046, 837 N.E.2d 315, ¶ 60. "[E]ven pervasive adverse pretrial publicity 'does not inevitably lead to an unfair trial.'" *State v. Gilbert,* 7th Dist. Mahoning No. 08 MA 206, 2012–Ohio–1165, ¶ 95. The trial court oversaw the voir dire and the record of voir dire indicates that the jurors could render a fair and impartial verdict. Accordingly, even considering there may have been pretrial publicity, Appellant cannot demonstrate the prejudice prong on the ineffective assistance of counsel claim. Failing one prong of the ineffective assistance of counsel test is fatal to the entire claim.

{¶32} As to Brandi Cope's criminal record claim, Appellant argues her trial counsel did not have this record. First, it is noted that the criminal record Appellant attached to the post-conviction petition that allegedly her counsel did not have is a print out of the municipal court online docket that is available to the public and was available to her and her counsel. Also, it is noted that the record indicates that information was provided during discovery. Consequently, considering this information was provided in discovery, was a public record, and there was no indication that counsel did not have the information, it does not provide a basis for granting a petition for post-conviction relief.

{¶33} Regardless, it could not be determined that Appellant was prejudiced regarding this matter. As the state pointed out in its motion to dismiss the petition, Cope was in jail clothes when she testified and she testified about her incarceration. In our opinion, we noted that Cope testified the victim was one of her drug dealers. *Heckathorn*, 7th Dist. Columbiana No. 17 CO 0011, 2019-Ohio-1086, ¶ 30. The jury and counsel clearly were aware the witness had a prior record, was a drug user, and was in jail. Furthermore, Cope's testimony merely established that Heckathorn was meeting with the victim on the day of his murder. However, text messages between Landsberger, Appellant and the victim, and Appellant's own statement to the police established that

fact, too. Consequently, Appellant cannot meet the prejudice prong of the ineffective assistance of counsel test.

{¶34} The last claim concerns text messages that were allegedly recovered, but not disclosed to Appellant through discovery. Appellant claims the undisclosed text messages show the victim used drugs. In the messages provided, the victim does talk about smoking and "smke [sic] a blunt." The claim that they were not disclosed, however, appears to be unfounded. The alleged text messages that were allegedly not disclosed through discovery are attached to the petition. Appellant does not state how she uncovered these messages if they were not provided during discovery. Furthermore, the record indicates that text messages (in general) were disclosed to counsel and Appellant. Counsel was aware of the text messages and referenced the text messages in the opening statement. Thus, there is nothing in the record to suggest these text messages were not disclosed other than her mere allegation that they were not.

{¶35} If the messages were disclosed, counsel's failure to ask questions about the victim's drug use was an issue that should have been and could have been raised in the direct appeal. That said, an argument that counsel was ineffective on this basis would probably have been meritless; it would be difficult to conclude prejudice resulted from not trying to show the victim used drugs. It was readily admitted the victim was a drug dealer. Furthermore, the text messages between Landsberger and Appellant established the robbery and murder as discussed in our opinion in *Heckathorn*, 2019-Ohio-1086.

{¶36} The argument regarding the text messages does not indicate the trial court abused its discretion in dismissing the petition.

{¶37} In conclusion, when considering the arguments, it could be determined that most, if not all, of these arguments could have been made in the direct appeal and thus, were not matters outside the scope of the record. Accordingly, they were barred by res judicata. However, even if these arguments were proper for a post-conviction relief petition, Appellant cannot demonstrate counsel was deficient and/or she was prejudiced. Thus, the trial court did not abuse its discretion in dismissing the petition.

Second Assignment of Error

"The lower court erred by summarily dismissing Heckathorn's petition for post-conviction relief without making and filing findings of fact and conclusions of law."

{¶38} Appellant argues the trial court's judgment entry does not make findings of fact and conclusions of law as required by R.C. 2953.21(D). The state asserts the judgment entry is sufficient because it adopts the state's reasoning.

{¶39} The trial court's judgment entry dismissing the petition stated:

> The State argues that the Defendant has failed to allege the denial of a constitutional right and to allege an evidentiary basis or operative facts to support the alleged denial. The State cites the fact that arguments raised by the Defendant are not issues outside the scope of the trial and thus are not properly raised in a petition for post-conviction relief. It is the State's position that the Defendant merely wants to re-litigate the trial and perhaps try out a new defense that was previously available to her. In summary, the State argues that by the petition for post-conviction relief the supplement, the Defendant alleges grounds that are improper for the granting of such relief.
>
> The Court agrees with the State's arguments.
>
> The Petition, Supplement, and related motions are dismissed.

12/27/18 J.E.

{¶40} Pursuant to R.C. 2953.21(D):

> The court shall consider a petition that is timely filed under division (A)(2) of this section even if a direct appeal of the judgment is pending. Before granting a hearing on a petition filed under division (A) of this section, the court shall determine whether there are substantive grounds for relief. In making such a determination, the court shall consider, in addition to the petition, the supporting affidavits, and the documentary evidence, all the files and records pertaining to the proceedings against the petitioner, including, but not limited to, the indictment, the court's journal entries, the journalized records of the clerk of the court, and the court reporter's transcript. The court reporter's transcript, if ordered and certified by the

> court, shall be taxed as court costs. If the court dismisses the petition, it shall make and file findings of fact and conclusions of law with respect to such dismissal. If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the dismissal of the petition and of each claim it contains.

R.C. 2953.21(D).

{¶41} Accordingly, the trial court was required to make findings of fact and conclusions of law when it dismissed the petition. However, given the last sentence of the above enumerated section, since this is not a death case, the findings of fact and conclusions of law were not needed for each claim. Rather, they were needed for the entire dismissal.

{¶42} Appellate courts have stated that when a trial court finds that a hearing is not warranted and dismissed the petition, the trial court must issue findings of fact and conclusions of law sufficient to enable meaningful appellate review. *State v. Hull*, 11th Dist. Lake No. 2018-L-050, 2019-Ohio-23, ¶ 38, citing R.C. 2953.21(D) and *State v. Calhoun*, 86 Ohio St.3d 279, 291-292, 714 N.E.2d 905 (1999); *State v. Beckwith*, 8th Dist. Cuyahoga No. 106479, 2018-Ohio-2227, ¶ 13 ("Insofar as R.C. 2953.21(D) instructs the trial court to issue findings of fact and conclusions of law with respect to the dismissal of a petition, '[t]hese findings and conclusions need only "apprise the petitioner of the reasons for the trial court's judgment [in order] to permit meaningful appellate review."'"). A sufficiently detailed judgment entry permits meaningful appellate review. *State v. Dennison*, 4th Dist. Lawrence No. 18CA6, 2018-Ohio-4502, ¶ 30, citing *State ex rel. Carrion v. Harris*, 40 Ohio St.3d 19, 20, 530 N.E.2d 1330 (1988).

{¶43} The trial court does state that the arguments raised by Appellant are not issues outside the scope of the trial and thus, are not properly raised in a post-conviction relief petition. The first portion of that sentence could be deemed a finding of fact. The second portion would be a conclusion of law. While the finding of fact may have been correct to many of the arguments raised in the petition, potentially (and argued by Appellant in the first assignment of error) it was not correct to the ineffective assistance of counsel arguments that are raised on appeal because Appellant does appear to be relying on matters outside the record. However, an incorrect finding on those claims does

not mean the judgment entry was inadequate. Rather, it would mean it was potentially incorrect, but reviewable by this court.

{¶44} Furthermore, the trial court stated that it agreed with the state's argument and dismissed the petition. That statement, given the state's motion to dismiss, could be deemed a finding of fact and conclusion of law. The trial court's statement in conjunction with the state's motion permits meaningful appellate review. The state's opposition motion is well detailed. As set forth above, the state's motion to dismiss asserted Appellant failed to raise a sufficient constitutional challenge that would require a hearing. As to community bias, it argued the allegation was not a constitutional issue and furthermore, the trial court over saw the voir dire process and the record demonstrated the jury was not biased. As to Cope's testimony, the state noted that Cope appeared in jail clothes and testified as to her incarceration. The state asserted the arguments regarding Cope were unsubstantiated speculation. As to the text messages, the state asserted Appellant had access to all text messages through discovery. Furthermore, her argument was an argument regarding the meaning and context of the text messages and thus, did not provide a constitutional foundation for post-conviction review. 11/28/18 Motion.

{¶45} As discussed above, the state's reasoning is the correct basis for determining that the petition should be dismissed without a hearing. The trial court's judgment could be meaningfully reviewed. Accordingly, this assignment of error is meritless.

Conclusion

{¶46} Both assignments of error lack merit. The trial court's decision is affirmed.

Waite, P.J., concurs.

D'Apolito, J., concurs.

For the reasons stated in the Opinion rendered herein, the assignments of error are overruled and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas of Columbiana County, Ohio, is affirmed. Costs taxed against Appellant.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.