

**THE STATE OF OHIO, APPELLEE, v. SPAULDING, APPELLANT.**

**[Cite as *State v. Spaulding*, 1994-Ohio-42.]**

*Appellate procedure—Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied when filed more than ninety days after effective date of App.R. 26(B).*

(No. 94-1474—Submitted October 24, 1994—Decided December 20, 1994.)

APPEAL from the Court of Appeals for Summit County, No. 14408.

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{¶ 1} Appellant, John Spaulding, was convicted of aggravated robbery in 1989. He appealed, and the court of appeals affirmed the conviction. *State v. Spaulding* (June 27, 1990), Summit App. No. 14408, unreported. In 1994, he applied to the court of appeals under App. R. 26(B) to reopen the appeal from the judgment of conviction, alleging ineffective assistance of appellate counsel. The court of appeals denied the application on the basis that it was filed more than ninety days after the July 1, 1993 effective date of App. R. 26(B) and appellant had not shown good cause for the delay. Appellant appeals the denial to this court.

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*Lynn C. Slaby*, Summit County Prosecuting Attorney, and *William D. Wellemeyer*, Assistant Prosecuting Attorney, for appellee.

*John Spaulding, pro se.*

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**Per Curiam.**

{¶ 2} The decision of the court of appeals is affirmed for the reasons stated therein.

*Judgment affirmed.*

SUPREME COURT OF OHIO

Moyer, C.J., Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.  
A.W. Sweeney and Wright, JJ., dissent.

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