

THE STATE OF OHIO, APPELLEE, v. BEARD, APPELLANT.

[Cite as *State v. Beard*, 1994-Ohio-53.]

Appellate procedure—Appeal from denial of late motion for reconsideration pursuant to App.R. 26(A) denied, when.

(No. 94-1436—Submitted October 11, 1994—Decided December 7, 1994.)

APPEAL from the Court of Appeals for Medina County, No. 2170-M.

{¶ 1} According to the appellate court decisions, appellant Brian Beard was convicted of aggravated robbery, theft, and complicity to commit aggravated robbery. He appealed, and the court of appeals affirmed the convictions. *State v. Beard* (Oct. 7, 1992), Medina App. No. 2093-M, unreported. This court overruled the jurisdictional motion for appeal on February 24, 1993. *State v. Beard* (1993), 66 Ohio St.3d 1420, 607 N.E.2d 843.

{¶ 2} On June 18, 1992, appellant filed a motion for new trial, which was denied by the trial court on September 16, 1992, and that denial was affirmed on appeal. *State v. Beard* (May 19, 1993), Medina App. No. 2170-M, unreported. Thereafter (appellee alleges on or about April 15, 1994) appellant filed either a motion for delayed reconsideration or a "motion for leave to plead a delayed appeal to redress a manifest miscarriage of justice/or applicable motion for relief." Apparently, that motion was denied by the court of appeals on or about May 18, 1994; appellant then filed a notice of appeal to this court, which this court treated as an appeal as of right of a denial of a motion to reopen the case because of ineffective assistance of appellate counsel pursuant to App. R. 26(B). See Administrative Docket (Aug. 17, 1993), 67 Ohio St.3d 1430, 616 N.E.2d 1114 ("Appeals to the Supreme Court taken pursuant to *State v. Murnahan* [1992], 63 Ohio St.3d 60, 584 N.E.2d 1204, shall be treated and docketed like direct appeals.").

SUPREME COURT OF OHIO

Dean Holman, Medina County Prosecuting Attorney, and *John J. Dolatowski*, Assistant Prosecuting Attorney, for appellee.

Brian Beard, *pro se*.

Per Curiam.

{¶ 3} Upon further examination of the pleadings, the court finds that the "Memorandum in Support of Jurisdiction" attempts to combine an appeal as of right following the denial of a motion to reopen a case for ineffective assistance of counsel pursuant to App. R. 26(B) (Proposition 2) with an appeal from the denial of a late motion for reconsideration pursuant to App. R. 26(A), from which there is no appeal as of right. Insofar as appellant's memorandum is in support of jurisdiction over a claimed appeal as of right and in support of a motion for leave to appeal a decision under App. R. 26(A), we dismiss the appeal as not involving a substantial constitutional question and deny leave to appeal. Insofar as the memorandum attempts to appeal the question of ineffective assistance of appellate counsel under App. R. 26(B), the decision of the court of appeals is affirmed.

Judgment accordingly.

MOYER, C.J., A.W. SWEENEY, DOUGLAS, WRIGHT, RESNICK, F.E. SWEENEY and PFEIFER, JJ., concur.
