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

[Cite as *State v. Mancini*, 1994-Ohio-59.]

*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. 94-1834—Submitted October 24, 1994—Decided December 21, 1994.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 63892.

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{¶ 1} Appellant, John Mancini, pled guilty to and was convicted of robbery, theft, and possession of drugs, and was sentenced to prison in 1991. In 1992, he filed a delayed appeal, but the court of appeals affirmed the conviction in January 1993. Appellant's jurisdictional motion to this court was overruled. *State v. Mancini* (1993), 66 Ohio St.3d 1507, 613N.E.2d 1045. On June 16, 1994 he applied to the court of appeals pursuant to App. R. 26(B) to reopen the appeal from the judgment of conviction alleging ineffective assistance of appellate counsel for failure to argue that appellant's use of prescription drugs affected the voluntary nature of his plea, that his Fifth Amendment rights, were impaired when the trial court failed to determine that they were affirmatively waived, and that the trial court failed to establish a factual basis for the guilty plea. The court of appeals denied the application on the basis that the appellate counsel's handling of the issues was not ineffective, and that appellant had not shown good cause for not filing his application within ninety days after App. R. 26(B) took effect. Appellant appeals the denial to this court.

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Stephanie Tubbs Jones, Cuyahoga County Prosecuting Attorney, and *George J. Sadd*, Assistant Prosecuting Attorney, for appellee.

John Mancini, *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.

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

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