

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

**[Cite as *State v. Kinney*, 1995-Ohio-118.]**

*Appellate procedure—Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied when applicant fails to establish good cause for failing to file his application within ninety days after journalization of the appellate judgment as required by App.R. 26(B)(2)(b).*

(No. 95-523—Submitted May 23, 1995—Decided August 9, 1995.)

APPEAL from the Court of Appeals for Hamilton County, No. C-73373.

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{¶ 1} Appellant, Jack Kinney, was convicted of murder in the first degree and the crimes of shooting to kill and to wound. The court of appeals affirmed the convictions and sentences. *State v. Kinney* (May 20, 1974), Hamilton App. No. C-73373, unreported. On November 17, 1994, Kinney filed with the court of appeals an application to reopen his appeal under App. R. 26(B), alleging ineffective assistance of his appellate counsel. The court of appeals denied the application due to Kinney's failure to show good cause for filing his application more than ninety days after the court's judgment was journalized, as required by App. R. 26(B)(2)(b). Appellant appeals the denial to this court.

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*Joseph T. Deters*, Hamilton County Prosecuting Attorney, and *Phillip R. Cummings*, Assistant Prosecuting Attorney, for appellee.

*Jack Kinney, pro se.*

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SUPREME COURT OF OHIO

*Per Curiam.*

{¶ 2} We affirm the decision of the court of appeals for the reasons stated in its opinion.

*Judgment affirmed.*

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

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