

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

[Cite as *State v. Cheren*, 1995-Ohio-140.]

Appellate procedure—Successive application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied because App.R. 26(B) makes no provision for successive applications to reopen.

(No. 95-0038—Submitted April 18, 1995—Decided August 16, 1995.)

APPEAL from the Court of Appeals for Summit County, No. 15752.

{¶ 1} Appellant, Oles Cheren, was convicted of abduction, attempted rape and gross sexual imposition. The Court of Appeals for Summit County affirmed the judgment of the trial court. *State v. Cheren* (July 21, 1993), Summit App. No. 15752, unreported, 1993 WL 278168.

{¶ 2} Appellant filed an application to reopen the appellate judgment pursuant to App. R. 26(B), arguing ineffective assistance of appellate counsel. The application was denied by the court of appeals. The appellate court found that a failure to object to every error in the record did not constitute ineffective assistance of counsel. *State v. Cheren* (Sept. 14, 1993), Summit App. No. 15752, unreported.

{¶ 3} On October 27, 1994, appellant filed another application to reopen, again arguing ineffective assistance of appellate counsel. To show good cause for the thirteen-month delay, appellant stated that his appellate counsel had recently admitted that she filed his appeal without a complete trial transcript. On December 2, 1994, the court of appeals ruled that the appellant had failed to show good cause for untimely filing, and denied the second application to reopen.

SUPREME COURT OF OHIO

Maureen O'Connor, Summit County Prosecuting Attorney, and *William D. Wellemeyer*, Assistant Prosecuting Attorney, for appellee.

Oles Cheren, pro se.

Per Curiam.

{¶ 4} The decision of the court of appeals denying this successive application is affirmed on the basis of *State v. Peebles* (1995), 73 Ohio St.3d, N.E.2d, decided today.

Judgment affirmed.

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

COOK, J., not participating.
