

1 The State of Ohio, Appellee, v. Edwards, Appellant.

2 [Cite as State v. Edwards (1995), Ohio St. 3d .]

3 Appellate procedure -- Application for reopening appeal from judgment and

4 conviction based on claim of ineffective assistance of appellate

5 counsel -- Assistance denied when applicant fails to show good cause

6 for failing to file his application within ninety days after

7 journalization of the appellate judgment as required by App.R.

8 26(B)(2)(b).

9 (No. 95-654 -- Submitted June 21, 1995 -- Decided August 23, 1995.)

10 Appeal from the Court of Appeals for Franklin County, No. 85AP-

11 363.

12 Appellant, Leroy Edwards, was convicted of murder and sentenced to

13 a term of fifteen years to life imprisonment. Appellant's conviction and

14 sentence were affirmed by the court of appeals on October 17, 1985. *State*

15 *v. Edwards* (1985), 26 Ohio App.3d 199, 26 OBR 420, 499 N.E.2d 352. We

16 overruled Edwards' motion for leave to appeal and claimed appeal of right.

17 On September 19, 1994, Edwards filed with the court of appeals an

18 application to reopen his appeal under App.R. 26(B), alleging ineffective

1 assistance of his appellate counsel. The court of appeals denied the
2 application, finding that appellant had failed to establish good cause for not
3 filing his application to reopen within ninety days from the journalization of
4 the appellate judgment, as required by App.R. 26(B)(2)(b). In fact, nearly
5 nine years passed after the journalization of the appellate judgment before
6 appellant filed his application to reopen.

7 The court of appeals recognized that App. R. 26(B)(2)(b) did not
8 become effective until July 1, 1993, and was therefore not applicable to
9 appellant in 1985 when the court of appeals' affirmance of his conviction
10 and sentence was journalized. However, after App. R. 26(B)(2)(b) became
11 effective it was over one year before appellant filed his application to
12 reopen. The court of appeals also noted that ignorance of procedure "absent
13 some indication that defendant could not have discovered with reasonable
14 effort the avenue for relief he now seeks to pursue" does not constitute good
15 cause for untimely filing.

16 Appellant appeals the denial to this court.

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1 *Michael Miller*, Franklin County Prosecuting Attorney, and *Michael*
2 *L. Collyer*, Assistant Prosecuting Attorney, for appellee.

3 *Leroy Edwards, pro se.*

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5 *Per Curiam.* We affirm the decision of the court of appeals for the
6 reasons stated in its opinion.

7 *Judgment affirmed.*

8 MOYER, C.J., DOUGLAS, WRIGHT, RESNICK, F.E. SWEENEY, PFEIFER

9 and COOK, JJ., concur.

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