

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

[Cite as *State v. Terrell*, 1995-Ohio-54.]

Appellate procedure—Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied when claim is res judicata because issue could have been raised on applicant's appeal of his conviction to Supreme Court of Ohio.

(No. 94-2531—Submitted February 21, 1995—Decided May 24, 1995.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 65312.

{¶ 1} Appellant, Harry Terrell, was convicted of felonious assault with a firearm specification. The conviction was affirmed on appeal. *State v. Terrell* (May 26, 1994), Cuyahoga App. No. 65312, unreported. Subsequently, Terrell filed an application to reopen his appeal under App. R. 26 (B), alleging ineffective assistance of appellate counsel. The court of appeals denied the application, finding that the issues were *res judicata* because they were or could have been raised on Terrell's appeal of his conviction to this court, and independent review failed to disclose any genuine issue of ineffective assistance of counsel.

{¶ 2} Terrell then appealed to this court.

Stephanie Tubbs Jones, Cuyahoga County Prosecuting Attorney, and *Diane Smilanick*, Assistant Prosecuting Attorney, for appellee.

Harry Terrell, pro se.

SUPREME COURT OF OHIO

Per Curiam.

{¶ 3} The decision of the court of appeals is affirmed for the reasons stated in its opinion.

Judgment affirmed.

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