

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

**[Cite as *State v. Yauger*, 1996-Ohio-33.]**

*Appellate procedure—Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied when there is no evidence that applicant’s counsel’s performance fell below an objective standard of reasonable representation and thus prejudiced applicant.*

(No. 96-719—Submitted June 4, 1996—Decided July 31, 1996.)

APPEAL from the Court of Appeals for Tuscarawas County, No. 93AP 080055.

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{¶ 1} Appellant, Ricky Yauger, was convicted in July 1993 of aggravated robbery with a gun specification. The trial court sentenced Yauger to prison, and the court of appeals affirmed. *State v. Yauger* (Jan. 10, 1995), Tuscarawas App. No. 93AP080055, unreported, 1995 WL 42490.

{¶ 2} On March 23, 1995, appellant filed an application with the court of appeals to reopen his appeal under App.R. 26(B), alleging the ineffective assistance of appellate counsel. Although at first the court of appeals reinstated the appeal, the court dismissed the appeal on May 22, 1995 for want of prosecution. On June 15, 1995, appellant filed a motion to reinstate his appeal and a motion for appointment of counsel. The court of appeals reinstated the appeal and appointed counsel. (Ex. A, Appellee’s brief).

{¶ 3} Although the court of appeals reinstated the appeal, it reaffirmed the trial court’s judgment, finding, *inter alia*, no evidence that appellate “counsel’s performance fell below an objective standard of reasonable representation and thus prejudiced appellant.” Appellant has now appealed that decision to this court.

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SUPREME COURT OF OHIO

*Scott J. Mastin*, Tuscarawas County Assistant Prosecuting Attorney, for  
appellee.

*Ricky Yauger, pro se.*

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***Per Curiam.***

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

*Judgment affirmed.*

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

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