

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

[Cite as *State v. McKinzie*, 1996-Ohio-40.]

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 genuine issue as to whether applicant was deprived of the effective assistance of counsel on appeal.

(No. 95-2405—Submitted April 15, 1996—Decided June 5, 1996.)

APPEAL from the Court of Appeals for Butler County, No. CA90-12-235.

{¶ 1} Appellant, Jermaine McKinzie, was convicted of the May 1990 murder of Michael Riley and sentenced to prison. Upon appeal, the court of appeals affirmed the conviction and sentence. *State v. McKinzie* (Sept. 23, 1991), Butler App. No. CA90-12-235, unreported, 1991 WL 188168, appeal dismissed (1992), 62 Ohio St.3d 1500, 583 N.E.2d 972.

{¶ 2} In August 1995, McKinzie filed with the court of appeals an application to reopen his appeal under App.R. 26(B), alleging ineffective assistance of appellate counsel. The court of appeals analyzed McKinzie's claims and concluded that "there is no genuine issue as to whether appellant was deprived of the effective assistance of counsel on appeal." See App.R. 26(B)(5). The court of appeals denied his application to reopen, and McKinzie appeals that denial to this court.

John F. Holcomb, Butler County Prosecuting Attorney, *Daniel G. Eichel* and *John J. McCracken*, Assistant Prosecuting Attorneys, for appellee.

H. Fred Hoefle, for appellant.

SUPREME COURT OF OHIO

Per Curiam.

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

Judgment affirmed.

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