

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

[Cite as *State v. Brown*, 1996-Ohio-44.]

Appellate procedure—Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied when applicant fails to establish good cause for failure to file motion within ninety days from journalization of the appellate judgment, as required by App.R. 26(B).

(No. 95-2122—Submitted December 12, 1995—Decided February 14, 1996.)

APPEAL from the Court of Appeals for Montgomery County, No. CA 8175.

{¶ 1} Appellant, Ronald Perry Brown, was convicted of rape and gross sexual imposition. His convictions and sentences were affirmed on appeal. *State v. Brown* (Apr. 13, 1984), Montgomery App. No. CA 8175, unreported.

{¶ 2} He filed an application for reopening his appeal on July 24, 1995, alleging as good cause for failure to file the application within ninety days of journalization of the judgment sought to be reopened, as required by App.R. 26(B), that a right to reopen was not announced before 1992, and after 1992, he did not wish to jeopardize his first chance for parole by having a case pending. The court of appeals rejected this reasoning, and appellant appealed to this court.

Mathias H. Heck, Jr., Montgomery County Prosecuting Attorney, and
Carley J. Ingram, Assistant Prosecuting Attorney, for appellee.

Ronald Perry Brown, pro se.

SUPREME COURT OF OHIO

Per Curiam.

{¶ 3} The judgment of the court of appeals is affirmed. In this court, appellant makes no attempt to establish good cause, but instead argues the questions he wanted the court of appeals to hear, but which it did not hear. The application was rejected for failure to state a good cause for late filing. That is the issue before this court. Since appellant does not even address the issue, the judgment of the court of appeals is affirmed.

Judgment affirmed

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