

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

[Cite as *State v. Whalen*, 1996-Ohio-6.]

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 show good cause for failure to file the motion within ninety days after journalization of the court of appeals’ decision affirming the conviction, as required by App.R. 26(B).

(No. 95-2000—Submitted January 23, 1996—Decided February 28, 1996.)

APPEAL from the Court of Appeals for Hamilton County, No C-930367.

{¶ 1} In April 1993, appellant, David M. Whalen, Jr., was convicted of two counts of aggravated robbery, with firearms specifications, three counts of robbery, with firearms specifications, and one count of theft, and was sentenced to prison. The court of appeals affirmed the convictions and sentence. *State v. Whalen* (Sept. 7, 1994), Hamilton App. No. C-930367, unreported, 1994 WL 481737.

{¶ 2} The parties agree that in June 1995, appellant filed with the court of appeals an application to reopen his appeal under App.R. 26(B), alleging ineffective assistance of his appellate counsel. The court of appeals denied the application, finding that appellant had “failed to show good cause for filing his application more than ninety days after this Court’s judgment was journalized, as required by App.R. 26(B)(2)(b).” Appellant appeals that denial to this court.

Joseph T. Deters, Hamilton County Prosecuting Attorney, and *Ronald W. Springman, Jr.*, Assistant Prosecuting Attorney, for appellee.

David M. Whalen, Jr., *pro se*.

SUPREME COURT OF OHIO

Per Curiam.

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

Judgment affirmed.

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