

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

[Cite as *State v. Bies*, 1997-Ohio-168.]

Appellate procedure—Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied when not timely filed.

(No. 97-12—Submitted May 6, 1997—Decided July 16, 1997.)

APPEAL from the Court of Appeals for Hamilton County, No. C-920841.

{¶ 1} Appellant, Michael Bies, was convicted of aggravated murder with specifications, and of attempted rape and kidnapping. He was sentenced to death. Upon appeal, the court of appeals affirmed the convictions and sentence. *State v. Bies* (Mar. 30, 1994), Hamilton App. No. C-920841, unreported, 1994 WL 102196. On direct appeal as of right, we also affirmed his convictions and sentence. *State v. Bies* (1996), 74 Ohio St.3d 320, 658 N.E.2d 754, certiorari denied (1996), 517 U.S. ___, 116 S.Ct. 1885, 135 L. Ed.2d 180.

{¶ 2} On September 20, 1996, appellant filed an “Application for Reopening” with the court of appeals pursuant to App.R. 26(B) and *State v. Murnahan* (1992), 63 Ohio St.3d 60, 584 N.E.2d 1204, alleging ineffective assistance of appellate counsel on his direct appeal. The court of appeals denied the application as untimely and without good cause shown.

{¶ 3} This appeal followed.

Joseph T. Deters, Hamilton County Prosecuting Attorney, and *William E. Breyer*, Assistant Prosecuting Attorney, for appellee.

Hallowes, Allen & Haynes and *S. Scott Haynes*; and *J. Joseph Bodine, Jr.*, Assistant State Public Defender, for appellant.

Per Curiam.

{¶ 4} We affirm the judgment of the court of appeals denying appellant's application for reopening for the same reasons articulated by the court of appeals. Appellant has offered no compelling justification why his application was filed beyond the time strictures of App.R. 26(B).

Judgment affirmed.

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