

[Cite as *State v. Perry*, 2002-Ohio-4887.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT
COUNTY OF CUYAHOGA
No. 65455

STATE OF OHIO,	:	ORIGINAL ACTION
Plaintiff-Appellee	:	JOURNAL ENTRY
v.	:	AND
RAY A. PERRY,	:	OPINION
Defendant-Appellant	:	

DATE OF JOURNALIZATION	:	SEPTEMBER 19, 2002
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CHARACTER OF PROCEEDING	:	Application for Reopening Motion No. 40583 Lower Court No. CR-291732
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JUDGMENT	:	Application Denied
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APPEARANCES:

For Plaintiff-Appellee:	WILLIAM D. MASON Cuyahoga County Prosecutor REBECCA J. MALECKAR Assistant County Prosecutor Justice Center - 8 th Floor 1200 Ontario Street Cleveland, Ohio 44113
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For Defendant-Appellant:	RAY A. PERRY, PRO SE P.O. Box 5600 Cleveland, Ohio 44101
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Anne L. Kilbane, J:

{¶1} Ray Perry is attempting to reopen, for the second time, the appellate judgment that was rendered in *State v. Perry* (May 12, 1994), Cuyahoga App. No. 65455. In that opinion, we affirmed his convictions for felonious assault, aggravated burglary and carrying a concealed weapon. For the following reasons, we deny his second application to reopen, sua sponte.

{¶2} There is no right to file successive applications for reopening pursuant to App.R. 26(B).¹ Additionally, the doctrine of res judicata prohibits this court from considering Perry's second application for reopening because his new claim of ineffective assistance of appellate counsel was or could have been raised through his initial application for reopening.² In fact, Perry raises the same arguments as those in his original application to

¹ *State v. Richardson* (1996), 74 Ohio St.3d 235, 658 N.E.2d 273; *State v. Cheren* (1995), 73 Ohio St.3d 137, 652 N.E.2d 707; *State v. Peeples* (1995), 73 Ohio St.3d 149, 652 N.E.2d 717; *State v. Sherrills* (Sept. 18, 1997), Cuyahoga App. No. 56777, reopening disallowed, (Mar. 6, 2001), Motion No. 24318.

² *State v. Phelps* (Sept. 30, 1996), Cuyahoga App. No. 69157, second reopening disallowed (Nov. 30, 1998), Motion No. 79992; *State v. Brantley* (June 29, 1992), Cuyahoga App. No. 62412, second reopening disallowed (May 22, 1996), Motion No. 72855.

reopen which this court denied.³

{¶3} Accordingly, Perry's second application for reopening is denied.

COLLEEN CONWAY COONEY, J., AND

DIANE KARPINSKI, J., CONCUR

ANNE L. KILBANE
JUDGE

³ *State v. Perry* (Dec. 18, 1997), Cuyahoga App. No. 65455.