

[Cite as *State v. Zayid*, 2002-Ohio-6225.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 77644

STATE OF OHIO

Plaintiff-Appellee

v.

AQUIL ZAYID

Defendant-Appellant

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JOURNAL ENTRY  
AND  
OPINION

DATE OF JOURNALIZATION:

NOVEMBER 14, 2002

CHARACTER OF PROCEEDING:

Application for Reopening  
Motion No. 72855.  
Lower Court No. CR 383316  
Court of Common Pleas

JUDGMENT:

Application Denied.

APPEARANCES:

For Plaintiff-Appellee:

WILLIAM D. MASON  
Cuyahoga County Prosecutor  
SHERRY F. MCCREADY  
Assistant Prosecuting Attorney  
The Justice Center  
1200 Ontario Street  
Cleveland, Ohio 44113

For Defendant-Appellant:

Aquil Zayid, Pro Se  
#385-736  
Mansfield Correctional  
Institution  
P.O. Box 788  
Mansfield, Ohio 44901

Judge Kenneth A. Rocco:

{¶1} On September 18, 2002, Aquil Zayid filed a second application for reopening pursuant to App. R. 26(B). He is again attempting to reopen the appellate judgment that was rendered by this court in *State v. Clifford Patrick, AKA Aquil Zayid*, (Aug. 17, 2000), Cuyahoga App. No. 77644. In that opinion, we affirmed Mr. Zayid's plea to one count of kidnapping and one count of attempted rape. The record indicates that Mr. Zayid filed his first application to reopen pursuant to App.R. 26(B) on June 29, 2001. This court denied that application on August 27, 2001. For the following reasons, we sua sponte deny Mr. Zayid's second application to reopen.

{¶2} Mr. Zayid's second application to reopen is not well taken because there is no right to file successive applications for reopening pursuant to App.R. 26(B). *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. Peebles* (1995), 73 Ohio St.3d 149, 652 N.E.2d 717; *State v. Towns* (Nov. 3, 1997), Cuyahoga App. No. 71244, reopening disallowed, (Apr. 22, 2002), Motion No. 37343; *State v. Sherrills* (Sept. 18, 1997), Cuyahoga App. No. 56777, reopening disallowed, (Mar. 6, 2001), Motion No. 24318; and *State v. Stewart* (Nov. 19, 1998), Cuyahoga App. No. 73255, reopening

disallowed, (Nov. 2, 2001), Motion No. 32159. "Neither Murnahan nor App.R. 26(B) was intended as an open invitation for persons sentenced to long periods of incarceration to concoct new theories of ineffective assistance of appellate counsel in order to have a new round of appeals." *State v. Reddick* (1995), 72 Ohio St.3d 88, 647 N.E.2d 784

{¶3} Furthermore, the doctrine of Res Judicata prohibits this court from considering Mr. Zayid's second application for reopening because his new claims of ineffective assistance of appellate counsel could have been raised in his initial application to reopen. *Stewart; Fuller; State v. Phelps* (Sept. 30, 1996), Cuyahoga App. No. 69157, second reopening disallowed (Nov. 30, 1998), Motion No. 79992; and *State v. Brantley* (June 29, 1992), Cuyahoga App. No. 62412, second reopening disallowed (May 22, 1996), Motion No. 72855.

{¶4} Accordingly, Mr. Zayid's second application for reopening is denied.

JAMES D. SWEENEY, J.        and

DIANE KARPINSKI, J. CONCUR.

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KENNETH A. ROCCO  
PRESIDING JUDGE