

[Cite as *State v. Torres*, 2007-Ohio-9.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 86530

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

ANGEL TORRES

DEFENDANT-APPELLANT

JUDGMENT: APPLICATION DENIED

APPLICATION FOR REOPENING
MOTION NO. 390254
LOWER COURT NO. CR-441431
COMMON PLEAS COURT

RELEASE DATE: January 3, 2007

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JUDGE MARY EILEEN KILBANE:

{¶ 1} On November 1, 2006, Angel Torres filed an application for reopening pursuant to App. R. 26(B). He is attempting to reopen the appellate judgment that was rendered by this court in *State v. Torres*, Cuyahoga App. No. 86530, 2006-Ohio-3696. In that opinion, we affirmed his convictions for three counts of aggravated murder; one count of murder; two counts of aggravated robbery; and four counts of aggravated burglary. For the following reason, we decline to reopen Torres' appeal:

{¶ 2} App.R. 26(B)(1) provides, in part: "An application for reopening shall be filed *** within ninety days from journalization of the appellate judgment unless the

applicant shows good cause for filing at a later time." App.R. 26(B)(2)(b) requires that an application for reopening include "a showing of good cause for untimely filing if the application is filed more than ninety days after journalization of the appellate judgment."

{¶ 3} This court's decision affirming applicant's conviction was journalized on July 31, 2006. However, Torres did not file his application for reopening until November 1, 2006.¹

{¶ 4} The Supreme Court has upheld judgments denying applications for reopening solely on the basis that the application was not timely filed and the applicant failed to show "good cause for filing at a later time." App.R. 26(B)(1). See, e.g., *State v. Gumm*, 103 Ohio St.3d 162, 2004-Ohio-4755, 814 N.E.2d 861; *State v. LaMar*, 102 Ohio St.3d 467, 2004-Ohio-3976, 812 N.E.2d 970. We need not, therefore, examine the merits of this application if Torres failed to demonstrate good cause for failing to file a timely application.

{¶ 5} In his application, Torres failed to provide this court with any reason for his untimely filing. Thus, his failure to demonstrate good cause is a sufficient basis for denying his application for reopening. See *State v. Quiles*, Cuyahoga App. No. 84293, 2005-Ohio-388, reopening disallowed, ___-Ohio-___, Motion No. 372157; *State v. Collier* (June 11, 1987), Cuyahoga App. No. 51993, reopening disallowed 2005-

¹ To have been considered timely, the application should have been filed on or before October 30, 2006.

Ohio-5797, Motion No. 370333; *State v. Garcia* (July 8, 1999), Cuyahoga App. No. 74427, reopening disallowed 2005-Ohio-5796, Motion No. 370916. As a consequence, Torres has not met the standard for reopening.

{¶ 6} Accordingly, the application for reopening is denied.

MARY EILEEN KILBANE, JUDGE

JAMES J. SWEENEY, P.J., and
ANTHONY O. CALABRESE, JR., CONCUR