

[Cite as *State v. Alford*, 2011-Ohio-6259.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 95946

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STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

DARRYL ALFORD

DEFENDANT-APPELLANT

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**JUDGMENT:**  
**APPLICATION DENIED**

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Cuyahoga County Common Pleas Court  
Case No. CR-469026  
Application for Reopening

Motion No. 448480

**RELEASE DATE:** December 7, 2011

**FOR APPELLANT**

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JAMES J. SWEENEY, P.J.:

{¶ 1} Darryl Alford has filed a timely application for reopening pursuant to App.R. 26(B). Alford is attempting to reopen the appellate judgment, journalized in *State v. Alford*, Cuyahoga App. No. 95946,

2011-Ohio-4811, which affirmed the denial of his motion to withdraw his guilty plea entered to the offenses of failure to comply with an order or signal of a police officer and felonious assault in *State v. Alford*, Cuyahoga County Court of Common Pleas Case No. CR-469026. We decline to reopen Alford's appeal.

{¶ 2} The appeal, which formed the basis of Alford's application for reopening, concerned a postconviction motion. Specifically, Alford's appeal involved an appeal from the denial of his motion to vacate the guilty plea as entered to the offenses of failure to comply with an order or signal of a police officer and felonious assault. An application for reopening, brought pursuant to App.R. 26(B), can only be employed to reopen an appeal from the judgment of conviction and sentence, based upon a claim of ineffective assistance of counsel. See *State v. Loomer*, 76 Ohio St.3d 398, 1996-Ohio-59, 667 N.E.2d 1209. See, also, *State v. Halliwell* (Dec. 30, 1996), Cuyahoga App. No. 70369, reopening disallowed (Jan. 28, 1999), Motion No. 300187; *State v. White* (Jan. 7, 2002), Cuyahoga App. No. 78190, reopening disallowed (May 13, 2004), Motion No. 357536; *State v. Shurney* (Mar. 10, 1994), Cuyahoga App. No. 64670, reopening disallowed (May 15, 1995), Motion No. 260758. Since App.R. 26(B) applies only to the direct appeal of a criminal conviction and

sentence, it cannot now be employed to reopen the appeal that dealt with Alford’s denial of a motion to vacate his guilty plea.

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

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JAMES J. SWEENEY, PRESIDING JUDGE

COLLEEN CONWAY COONEY, J., and  
KATHLEEN ANN KEOUGH, J., CONCUR

KEY WORDS