

[Cite as *State v. Freeman*, 2014-Ohio-5268.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 92809

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STATE OF OHIO

PLAINTIFF-APPELLEE

VS.

CHARLES FREEMAN

DEFENDANT-APPELLANT

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**JUDGMENT:**  
APPLICATION DENIED

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Cuyahoga County Court of Common Pleas  
Case Nos. CR-08-508859 and CR-08-518221  
Application for Reopening  
Motion No. 477955

**RELEASE DATE:** November 21, 2014

**FOR APPELLANT**

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PATRICIA ANN BLACKMON, J.:

{¶1} Under App.R. 26(B) applicant Charles Freeman filed an application to reopen the appellate judgment rendered in *State v. Freeman*, 8th Dist. Cuyahoga No. 92809, 2010-Ohio-3714. His application is untimely, and in order to overcome an untimely application, the applicant must show good cause. Applicant has not established good cause; therefore, the application must be denied.

{¶2} The appellate judgment was journalized on August 12, 2010. The application for reopening was not filed until August 26, 2014. This falls well outside the time limits of App.R. 26(B)(1), which requires applications to be filed within 90 days after journalization of the appellate judgment. The only exception that would permit us to review an untimely application is if applicant establishes good cause for filing at a later time. *Id.*

{¶3} The Supreme Court of Ohio, with regard to the 90-day deadline provided by App.R. 26(B)(2)(b), has firmly established that

Ohio and other states “may erect reasonable procedural requirements for triggering the right to an adjudication,” *Logan v. Zimmerman Brush Co.* (1982), 455 U.S. 422, 437, 102 S.Ct 1148, 71 L.Ed.2d 265, and that is what Ohio has done by creating a 90-day deadline for the filing of applications to reopen. [The applicant] could have retained new attorneys after the court of appeals issued its decision in 1994, or he could have filed the application on his own. What he could not do was ignore the rule’s filing deadline. \* \* \* The 90-day requirement in the rule is “applicable to all appellants,” *State v. Winstead* (1996), 74 Ohio St.3d 277, 278, 1996-Ohio-52, 658 N.E.2d 722, and [the applicant] offers no sound reason why he — unlike so many other Ohio criminal defendants — could not comply with that fundamental aspect of the rule.

*State v. LaMar*, 102 Ohio St.3d 467, 2004-Ohio-3976, 812 N.E.2d 970, ¶ 7-9. “Consistent enforcement of the rule’s deadline by the appellate courts in Ohio protects on the one hand the state’s legitimate interest in the finality of its judgments and ensures on the other hand that any

claims of ineffective assistance of appellate counsel are promptly examined and resolved.” *State v. Gumm*, 103 Ohio St.3d 162, 2004-Ohio-4755, 814 N.E.2d 861, ¶ 7. Applicant does not address the issue of his untimely application and he does not argue that any good cause exists for the late filing. Therefore, the untimely application for reopening must be denied. *State v. Garcia*, 8th Dist. Cuyahoa No. 74427, 2005-Ohio-5796, ¶ 3.

{¶4} Accordingly, this court denies the application to reopen.

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PATRICIA ANN BLACKMON, JUDGE

SEAN C. GALLAGHER, P.J., and  
MARY EILEEN KILBANE, J., CONCUR