

[Cite as *State v. Cowan*, 2015-Ohio-4271.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 100741

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

CRAIG A. COWAN

DEFENDANT-APPELLANT

JUDGMENT:
APPLICATION DENIED

Cuyahoga County Court of Common Pleas
Case No. CR-11-550536-A
Application for Reopening
Motion No. 487463

RELEASE DATE: October 9, 2015

FOR APPELLANT

Craig A. Cowan, pro se
Inmate No. 622-034
Grafton Correctional Institution
2500 South Avon-Belden Road
Grafton, Ohio 44044

ATTORNEYS FOR APPELLEE

Timothy J. McGinty
Cuyahoga County Prosecutor
By: Joseph J. Ricotta
Brett Hammond
Assistant County Prosecutors
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

LARRY A. JONES, SR., P.J.:

{¶1} Craig A. Cowan has filed a second App.R. 26(B) application for reopening of the appellate judgment that was rendered by this court in *State v. Cowan*, 8th Dist. Cuyahoga No. 100741, 2014-Ohio-3593.

{¶2} On February 25, 2015, this court denied Cowan's initial application for reopening on the basis of untimely filing and the fact that the issue of merger of the offenses of having weapons while under disability, improperly handling firearms in a motor vehicle, and discharge of a firearm on or near a prohibited premises was addressed upon appeal. On July 20, 2015, Cowan filed a second App.R. 26(B) application for reopening.

{¶3} Once again, Cowan has failed to establish good cause for the untimely filing of his application for reopening, which was filed more than 90 days after journalization of the appellate judgment on August 21, 2014. Thus, we are required to deny the untimely filed application for reopening. *State v. Gumm*, 103 Ohio St.3d 162, 2004-Ohio-4755, 814 N.E.2d 861; *State v. Cooley*, 73 Ohio St.3d 411, 1995-Ohio-328, 653 N.E.2d 252; *State v. Reddick*, 72 Ohio St.3d 88, 1995-Ohio-248, 647 N.E.2d 784.

{¶4} Of greater significance is the fact that Cowan is not permitted to file a second application for reopening. *State v. Twyford*, 106 Ohio St.3d 176, 2005-Ohio-4380, 833 N.E.2d 289. "[T]here is no right to file successive applications for reopening" under App.R. 26(B). *State v. Williams*, 99 Ohio St.3d 179, 2003- Ohio-3079, 790 N.E.2d 299,

¶ 12. *See also State v. Cooley*, 99 Ohio St.3d 345, 2003-Ohio-3914, 792 N.E.2d 720; *State v. Richardson*, 74 Ohio St.3d 235, 1996-Ohio-258, 658 N.E.2d 273. “[A] prisoner has no right to file successive applications for reopening. Once ineffective assistance of counsel has been raised and adjudicated, res judicata bars its relitigation.” *State v. Cheren*, 73 Ohio St.3d 137, 138, 1995-Ohio-28, 652 N.E.2d 707. *See also State v. Perry*, 10 Ohio St.2d 175, 226 N.E.2d 104 (1967).

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

LARRY A. JONES, SR., PRESIDING JUDGE

KATHLEEN ANN KEOUGH, J., and
EILEEN T. GALLAGHER, J., CONCUR