

[Cite as *State v. Shearer*, 2015-Ohio-5131.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION  
No. 92974

**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**LANDRA SHEARER**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
APPLICATION DENIED

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Cuyahoga County Court of Common Pleas  
Case No. CR-510282  
Application for Reopening  
Motion No. 490930

**RELEASE DATE:** December 8, 2015

**FOR APPELLANT**

Landra Shearer, pro se  
Inmate No. 562-645  
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P.O. Box 8000  
Conneaut, Ohio 44030

**ATTORNEYS FOR APPELLEE**

Timothy J. McGinty  
Cuyahoga County Prosecutor  
By: Mary McGrath  
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EILEEN T. GALLAGHER, J.:

{¶1} Landra Shearer, pursuant to App.R. 26(B), has applied to reopen this court's judgment in *State v. Shearer*, 8th Dist. Cuyahoga No. 92974, 2010-Ohio-1666, which affirmed his convictions but remanded for resentencing. For the following reasons, this court denies the application sua sponte.\_

{¶2} App.R. 26(B)(1) and (2)(b) require applications claiming ineffective assistance of appellate counsel to be filed within ninety days from journalization of the decision unless the applicant shows good cause for filing at a later time. *See also State v. Lamar*, 102 Ohio St.3d 467, 2004-Ohio-3976, 812 N.E.2d 970, and *State v. Gumm*, 103 Ohio St.3d 162, 2004-Ohio-4755, 814 N.E.2d 861 (holding that the ninety-day deadline for filing must be strictly enforced).

{¶3} In the present case, this court journalized its decision on April 15, 2010, and Shearer filed his application on November 13, 2015. Thus, it is untimely on its face. Further, he has made no effort to establish or allege any good cause that could arguably justify the extremely delayed filing of his application to reopen.

{¶4} In addition to the failure to proffer any good cause that would allow us to consider an untimely application, Shearer has failed to present any law in support of his proposed assignments of error, with the exception of the standard of review that applies to ineffective assistance of counsel claims. The standard of review requires the applicant to establish that his counsel's performance was deficient and that but for the deficient representation there was a reasonable probability that the outcome of the appeal would have been different. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). He has failed to establish these requirements. Furthermore, some of Shearer's claims of ineffective assistance of appellate

counsel lack any merit based on the fact that this court remanded the matter for resentencing to address whether his multiple convictions for felonious assault and attempted murder were allied offenses of similar import. *Shearer*, 2010-Ohio-1666, ¶ 31, citing *State v. Williams*, 124 Ohio St.3d 381, 2010-Ohio-147, 922 N.E.2d 937 and *State v. Crosby*, 186 Ohio App.3d 453, 2010-Ohio-1584, 928 N.E.2d 795. Accordingly, Shearer's claims, that his appellate counsel was ineffective for failing to raise arguments that his firearm specifications and his convictions were allied offenses of similar import, are moot.

{¶5} With no proffered reason for good cause, the untimely application is denied. *Accord State v. Anderson*, 8th Dist. Cuyahoga No. 92576, 2013-Ohio-1335, ¶ 1.

EILEEN T. GALLAGHER, JUDGE \_\_\_\_\_

MARY EILEEN KILBANE, P.J., and  
PATRICIA ANN BLACKMON, J., CONCUR