

[Cite as *State v. Kneuss*, 2015-Ohio-5132.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102198

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

BRYAN D. KNEUSS

DEFENDANT-APPELLANT

JUDGMENT:
APPLICATION DENIED

Cuyahoga County Court of Common Pleas
Case No. CR-13-572294-A
Application for Reopening
Motion No. 488459

RELEASE DATE: December 9, 2015

FOR APPELLANT

Bryan D. Kneuss, pro se
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ATTORNEYS FOR APPELLEE

Timothy J. McGinty
Cuyahoga County Prosecutor
By: Frank Romeo Zeleznikar
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KATHLEEN ANN KEOUGH, P.J.:

{¶1} Bryan D. Kneuss has filed an application for reopening pursuant to App.R. 26(B). Kneuss is attempting to reopen the appeal that was dismissed by this court in *State v. Kneuss*, 8th Dist. Cuyahoga No. 102198 (Nov. 24, 2014). For the following reasons, Kneuss's application for reopening is denied.

{¶2} Initially, we find that App.R. 26(B) is not applicable to the facts pertinent to the appeal filed App. No. 102198. No appellate judgment, which reviewed Kneuss's plea of guilty to the offense of illegal manufacture/cultivation of marijuana (R.C. 2925.04), has been announced and journalized by this court. This court dismissed Kneuss's pro se appeal on November 24, 2014, for failure to file a timely notice of appeal. Thus, we are prevented from considering Kneuss's application for reopening. *State v. Skaggs*, 8th Dist. Cuyahoga No. 76301, 1999 Ohio App. LEXIS 4680 (Sept. 21, 1999). *See also State v. Loomer*, 76 Ohio St.3d 398, 667 N.E.2d 1209 (1996); *State v. Halliwell*, 8th Dist. Cuyahoga No. 70369, 1999 Ohio App. LEXIS 285 (Jan. 28, 1999); *State v. Fields*, 8th Dist. Cuyahoga No. 68906, 1997 Ohio App. LEXIS 4109 (Sept. 5, 1997); *State v. Williams*, 8th Dist. Cuyahoga No. 69936, 1996 Ohio App. LEXIS 4796 (Oct. 31, 1996).

{¶3} Finally, even if Kneuss was permitted to file an application for reopening, App.R. 26(B)(2)(b) requires that he establish a showing of good cause for untimely filing if the application for reopening is filed more than 90 days after journalization of the appellate judgment, which is subject to reopening. Herein, Kneuss is attempting to reopen the dismissal order journalized on November 24, 2014. Kneuss's application for reopening was not filed until

August 19, 2015, more than 90 days after journalization of the order of dismissal in App. No. 102198. Kneuss has failed to establish good cause for the untimely filing of his application for reopening. Thus, we would be required to deny his application for reopening. *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.

{¶4} The application for reopening is denied.

KATHLEEN ANN KEOUGH, PRESIDING JUDGE

MELODY J. STEWART, J., and
MARY J. BOYLE, J., CONCUR