

[Cite as *State v. Trem*, 2016-Ohio-2932.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101265

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

JOSEPH TREM

DEFENDANT-APPELLANT

JUDGMENT:
APPLICATION DENIED

Cuyahoga County Court of Common Pleas
Case No. CR-94-312378-A
Application for Reopening
Motion No. 495267

RELEASE DATE: May 11, 2016

FOR APPELLANT

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ATTORNEYS FOR APPELLEE

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SEAN C. GALLAGHER, J.:

{¶1} Applicant Joseph Trem has filed an application to reopen his direct appeal in *State v. Trem*, 8th Dist. Cuyahoga No. 101265, 2014-Ohio-4934 (“*Trem I*”). We deny the application for the reasons that follow.

{¶2} In *Trem I*, applicant appealed the denial of his motion to withdraw his guilty plea. This court overruled his sole assignment of error and affirmed the trial court’s judgment in a decision that was released and journalized on November 6, 2014. *Id.* Subsequently, the trial court held a hearing to determine Trem’s sex offender status. The state appealed from the order that classified Trem as a sexually oriented offender under Megan’s Law in *State v. Trem*, 8th Dist. Cuyahoga No. 102894, 2016-Ohio-392 (“*Trem II*”).

{¶3} Trem bases his application to reopen *Trem I* on the alleged ineffective assistance of counsel pertaining to issues that concern his sex offender classification and the appeal before this court in *Trem II*. He maintains that his appellate counsel should have filed a cross-appeal or raised issues with the validity, or breach, of his plea based on his subsequent classification under Megan’s Law. However, he has filed an application to reopen *Trem I*, not *Trem II*. Because Trem’s sex offender classification was not at issue and he was not even classified as a sexually oriented offender until after *Trem I* was released and journalized, his appellate counsel in *Trem I* could not have raised any issues

regarding the classification in that appeal. Further, an application to reopen *Trem I* is untimely. See App.R. 26(B)(1).

{¶4} Application denied.

SEAN C. GALLAGHER, JUDGE

MARY EILEEN KILBANE, P.J., and
ANITA LASTER MAYS, J., CONCUR