

[Cite as *State v. Redmond*, 2016-Ohio-7600.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION  
No. 74738

**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**MAURICE REDMOND**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
APPLICATION DENIED

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Cuyahoga County Court of Common Pleas  
Case No. CR-332535  
Application for Reopening  
Motion No. 500089

**RELEASE DATE:** November 1, 2016

**FOR APPELLANT**

Maurice Redmond  
Inmate No. 320-804  
Grafton Reintegration Center  
2500 South Avon Belden Road  
Grafton, Ohio 44044

**ATTORNEYS FOR APPELLEE**

Timothy J. McGinty  
Cuyahoga County Prosecutor  
By: Gregory Ochocki  
Assistant County Prosecutor  
8th Floor Justice Center  
1200 Ontario Street  
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EILEEN T. GALLAGHER, J.:

{¶1} On September 14, 2016, the applicant, Maurice Redmond, pursuant to App.R. 26(B), applied to reopen this court's judgment in *State v. Redmond*, 8th Dist. Cuyahoga No. 74738, 1999 Ohio App. LEXIS 4108 (Sept. 2, 1999), in which this court affirmed Redmond's conviction for rape.<sup>1</sup> On August 4, 2014, the trial court conducted a sexual predator/H.B.-180 hearing, and pursuant to an agreed recommendation between the state and the defense classified Redmond as a habitual sex offender subject to report annually for 20 years upon his release from prison and is not required to notify the community. Redmond now argues that his trial counsel for the sexual predator hearing was ineffective because she should have argued that any imposition of sexual predator status would be an unconstitutional application of a retroactive law. For the following reasons, this court denies the application.

{¶2} First, an application to reopen appeal No. 74738 pursuant to App.R. 26(B) is the wrong remedy. App.R. 26(B) is to rectify ineffective assistance of appellate counsel.

In the present matter, appellate counsel in 1998 could not have argued an issue that would not arise until 2014, and Redmond is directly arguing ineffective assistance of trial

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<sup>1</sup> The grand jury indicted Redmond for kidnapping, rape with aggravated felony specifications, and corruption of a minor. Pursuant to a plea bargain, Redmond pled guilty to rape, the state nolleed the other charges and specifications, and the trial judge imposed an agreed sentence of six to 25 years. Redmond's appellate counsel argued that the plea was not voluntary and knowing because the state and the defense trial attorney misrepresented the aggregate possible minimum sentence for all the crimes with which he was charged.

counsel. The proper remedy was to file an appeal as of right within 30 days of August 8, 2014, when the trial court issued the H.B.-180 order.

{¶3} Moreover, Redmond has already filed an application to reopen his appeal. *State v. Redmond*, 8th Dist. Cuyahoga No. 74738, 1999 Ohio App. LEXIS 4108 (Sept. 2, 1999), *reopening disallowed*, 2016-Ohio-5130. There is no right to file successive applications for reopening pursuant to App.R. 26(B). *State v. Williams*, 99 Ohio St.3d 179, 2003-Ohio-3079, 190 N.E.2d 299; and *State v. Richardson*, 74 Ohio St.3d 235, 1996-Ohio-258, 658 N.E.2d 273.

{¶4} Finally, App.R. 26(B)(1) and (2)(b) require applications claiming ineffective assistance of appellate counsel to be filed within 90 days from journalization of the decision unless the applicant shows good cause for filing at a later time. The September 2016 application was filed 17 years after this court’s September 2, 1999 decision. Thus, the application is untimely on its face. His claim of a “dead bang winner” does not state cause for untimely filing.

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

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EILEEN T. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, P.J., and  
PATRICIA ANN BLACKMON, J., CONCUR