

[Cite as *State v. Hammond*, 2016-Ohio-8300.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 100656

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

PARIS J. HAMMOND

DEFENDANT-APPELLANT

JUDGMENT:
APPLICATION DENIED

Cuyahoga County Court of Common Pleas
Case No. CR-12-558346
Application for Reopening
Motion No. 500633

RELEASE DATE: December 16, 2016

FOR APPELLANT

Paris J. Hammond, pro se
Inmate No. 632-342
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ATTORNEYS FOR APPELLEE

Timothy J. McGinty
Cuyahoga County Prosecutor
By: Daniel T. Van
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MARY J. BOYLE, P.J.:

{¶1} Paris J. Hammond has filed an application for reopening pursuant to App.R. 26(B). Hammond is attempting to reopen the appellate judgment rendered in *State v. Hammond*, 8th Dist. Cuyahoga No. 100656, 2014-Ohio-4673, that affirmed his plea of guilty to two counts of felonious assault. We decline to reopen Hammond’s appeal.

{¶2} App.R. 26(B)(2)(b) requires that Hammond establish “a showing of good cause for untimely filing if the application is filed more than 90 days after journalization of the appellate judgment” that is subject to reopening. The Supreme Court of Ohio, with regard to the 90-day deadline provided by App.R. 26(B)(2)(b), has established that

[w]e now reject [the applicant’s] claims that those excuses gave good cause to miss the 90-day deadline in App.R. 26(B). * * * Consistent enforcement of the rule’s deadline by the appellate courts in Ohio protects on the one hand the state’s legitimate interest in the finality of its judgments and ensures on the other hand that any claims of ineffective assistance of appellate counsel are promptly examined and resolved.

Ohio and other states “may erect reasonable procedural requirements for triggering the right to an adjudication,” *Logan v. Zimmerman Brush Co.* (1982), 455 U.S. 422, 437, 102 S.Ct. 1148, 71 L.Ed.2d 265, and that is what Ohio has done by creating a 90-day deadline for the filing of applications to reopen. * * * *The 90-day requirement in the rule is “applicable to all appellants,” State v. Winstead* (1996), 74 Ohio St.3d 277, 278, 658 N.E.2d 722, and [the applicant] offers no sound reason why he — unlike so many other Ohio criminal defendants — could not comply with that fundamental aspect of the rule.

(Emphasis added.) *State v. Gumm*, 103 Ohio St.3d 162, 2004-Ohio-4755, 814 N.E.2d 861, ¶ 7. *See also State v. Lamar*, 102 Ohio St.3d 467, 2004-Ohio-3976, 812 N.E.2d

970; *State v. Cooley*, 73 Ohio St.3d 411, 653 N.E.2d 252 (1995); *State v. Reddick*, 72 Ohio St.3d 88, 647 N.E.2d 784 (1995).

{¶3} Herein, Hammond is attempting to reopen the appellate judgment that was journalized on October 23, 2014. The application for reopening was not filed until October 3, 2016, more than 90 days after journalization of the appellate judgment in *Hammond, supra*. Hammond has not presented any showing of good cause for the untimely filing of his application for reopening. It must also be noted that Hammond has failed to comply with App.R. 26(B)(2)(d), which mandates that the applicant must attach to the application for reopening “a sworn statement of the basis for the claim that appellate counsel’s representation was deficient.” *State v. Doles*, 75 Ohio St.3d 604, 665 N.E.2d 197 (1996); *State v. Lechner*, 72 Ohio St.3d 374, 650 N.E.2d 449 (1995); *State v. Bates*, 8th Dist. Cuyahoga Nos. 97631, 97632, 97633, and 97634, 2015-Ohio-4176.

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

MARY J. BOYLE, PRESIDING JUDGE _____

LARRY A. JONES, SR., A.J., and
EILEEN A. GALLAGHER, J., CONCUR