

[Cite as *State v. Woods*, 2017-Ohio-8860.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 82789

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

LELAND WOODS

DEFENDANT-APPELLANT

JUDGMENT:
APPLICATION DENIED

Cuyahoga County Court of Common Pleas
Case No. CR-02-429282-ZA
Application for Reopening
Motion No. 509378

RELEASE DATE: December 1, 2017

FOR APPELLANT

Leland Woods, pro se
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ATTORNEYS FOR APPELLEE

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By: Gregory J. Ochocki
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KATHLEEN ANN KEOUGH, A.J.:

{¶1} Leland Woods has filed an App.R. 26(B) application for reopening. Woods is attempting to reopen the appellate judgment rendered in *State v. Woods*, 8th Dist. Cuyahoga No. 82789, which affirmed his conviction and sentence for the offenses of rape, gross sexual imposition, and kidnapping. For the following reasons, we deny the application for reopening.

{¶2} App.R. 26(B)(1) requires that an application for reopening must be filed within 90 days after journalization of the appellate judgment subject to reopening. App.R. 26(B)(2)(b) requires that Woods establish a showing of good cause for untimely filing if the application is filed more than 90 days after journalization of the appellate judgment. 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} The appellate judgment, that Woods seeks to reopen, was journalized on May 27, 2004. The application for reopening was not filed until August 17, 2017, more than 90 days after journalization of the appellate judgment subject to reopening. Woods has failed to argue any showing of good cause for the untimely filing of his application for reopening. It is proper to deny an application for reopening solely because it is untimely filed and fails to establish good cause for the untimely filing. *Gumm*; *LaMar*. Woods's failure to demonstrate good cause is sufficient basis for denying his application for reopening. *See, e.g., State v. Almarshni*, 8th Dist. Cuyahoga No. 92237, 2010-Ohio-898, *reopening disallowed*, 2012-Ohio-349. Because the lack of good cause precludes our consideration of the untimely application, the substantive merits of the application cannot be addressed. *State ex rel. Wood v. McClelland*, 140 Ohio St.3d 331, 2014-Ohio-3969, 18 N.E.3d 423; *State v. Chappell*, 127 Ohio St.3d 376, 2010-Ohio-5991, 939 N.E.2d 1234 (reaffirming rule not to issue advisory opinions).

{¶4} Finally, Woods is not permitted to file a second application for reopening. *State v. Twyford*, 106 Ohio St.3d 176, 2005-Ohio-4380, 833 N.E.2d 289. On November 21, 2013, Woods filed his first App.R. 26(B) application for reopening, which was denied

by this court on January 21, 2014. *See State v. Woods*, 8th Dist. Cuyahoga No. 82789, 2014-Ohio-296. There exists no right to file successive applications for reopening under App.R. 26(B). *State v. Williams*, 99 Ohio St.3d 179, 2003-Ohio-3079, 790 N.E.2d 299. *See also State v. Cooley*, 99 Ohio St.3d 345, 2003-Ohio-3914, 792 N.E.2d 720; *State v. Richardson*, 74 Ohio St.3d 235, 658 N.E.2d 273 (1996); *State v. Cheren*, 73 Ohio St.3d 137, 138, 652 N.E.2d 707 (1995).

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

KATHLEEN ANN KEOUGH, ADMINISTRATIVE JUDGE

MELODY J. STEWART, J., and
LARRY A. JONES, SR., J., CONCUR