

[Cite as *State v. Houston*, 2018-Ohio-482.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104752

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

ANTONIO J. HOUSTON

DEFENDANT-APPELLANT

JUDGMENT:
APPLICATION DENIED

Cuyahoga County Court of Common Pleas
Case Nos. CR-15-597529-A, CR-15-597826-A, and CR-15-599941-A
Application for Reopening
Motion No. 512838

RELEASE DATE: February 5, 2018

FOR APPELLANT

Antonio J. Houston, pro se
Inmate No. 683838
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ATTORNEYS FOR APPELLEE

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LARRY A. JONES, SR., J.:

{¶1} Applicant, Antonio J. Houston, seeks to reopen his appeal, claiming that appellate counsel was ineffective. This court declines to reopen his appeal.

I. Factual and Procedural Background

{¶2} On December 11, 2017, Houston, pursuant to App.R. 26(B) and *State v. Murnahan*, 63 Ohio St.3d 60, 584 N.E.2d 1204 (1992), applied to reopen this court's June 8, 2017 judgment in *State v. Houston*, 8th Dist. Cuyahoga No.104752, 2017-Ohio-4179. There, Houston's convictions and sentences in three cases were affirmed.¹ Houston argues that appellate counsel was ineffective because counsel (1) should have argued that trial counsel was ineffective for numerous reasons not raised in the underlying appeal, (2) failed to raise a Confrontation Clause issue that was obvious and reversible error, and (3) failed to argue that the cumulative effect of errors that occurred deprived appellant of a fair trial. On December 21, 2017, the state of Ohio filed its brief in opposition.

¹ In Cuyahoga C.P. No. CR-15-597529-A, Houston was convicted of improper handling of a firearm in a motor vehicle, carrying a concealed weapon, aggravated menacing, and having weapons while under disability. In Cuyahoga C.P. No. CR-15-597826-A, Houston was convicted of two counts of felonious assault, two counts of attempted felonious assault, improper discharge of a firearm at or into a habitation or school, carrying a concealed weapon, discharging a weapon on or near a prohibited premises, and having weapons while under disability. In Cuyahoga C.P. No. CR-15-599941-A, Houston was convicted of felonious assault, discharging a weapon on or near a prohibited premises, improper handling of a firearm in a motor vehicle, and having weapons while under disability. Most counts included various firearm and other specifications. The trial court imposed prison sentences of 3 years, 44 years, and 19 years respectively; and ordered consecutive service of the sentences.

II. Law and Analysis

{¶3} App.R. 26(B)(1) and (B)(2)(b) require applications claiming ineffective assistance of appellate counsel to be filed within 90 days from journalization of the appellate decision unless the applicant shows good cause for filing at a later time. The 90-day deadline for filing an application for reopening must be strictly enforced. *State v. Lamar*, 102 Ohio St.3d 467, 2004-Ohio-3976, 812 N.E.2d 970; *State v. Gumm*, 103 Ohio St.3d 162, 2004-Ohio-4755, 814 N.E.2d 861. The present application was filed on December 11, 2017 — approximately six months after this court issued its decision in the underlying case. Thus, it is untimely on its face.

{¶4} In an effort to establish good cause, Houston argues that he did not have ready access to a law library or other legal materials because he was in a high-security prison. This court has repeatedly rejected the claim that limited access to legal resources states good cause for untimely filing. *State v. Wynn*, 8th Dist. Cuyahoga No. 103824, 2017-Ohio-9151, _ 4; *State v. Young*, 8th Dist. Cuyahoga No. 99752, 2016-Ohio-3165, _ 2; *State v. Stearns*, 8th Dist. Cuyahoga No. 76513, 2002 Ohio App. LEXIS 770 (Feb. 14, 2002). Therefore, Houston has failed to show good cause. His application is untimely.

{¶5} Application denied.

LARRY A. JONES, SR., JUDGE

TIM McCORMACK, P.J., and
PATRICIA ANN BLACKMON, J., CONCUR