

[Cite as *State v. Perry*, 2002-Ohio-4887.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT  
COUNTY OF CUYAHOGA  
No. 65455

STATE OF OHIO, : ORIGINAL ACTION  
Plaintiff-Appellee : JOURNAL ENTRY  
v. : AND  
RAY A. PERRY, : OPINION  
Defendant-Appellant :  
:  
DATE OF JOURNALIZATION : SEPTEMBER 19, 2002  
CHARACTER OF PROCEEDING : Application for Reopening  
Motion No. 40583  
Lower Court No. CR-291732  
JUDGMENT : Application Denied

APPEARANCES:

For Plaintiff-Appellee:

WILLIAM D. MASON  
Cuyahoga County Prosecutor  
REBECCA J. MALECKAR  
Assistant County Prosecutor  
Justice Center - 8<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, Ohio 44113

For Defendant-Appellant:

RAY A. PERRY, PRO SE  
P.O. Box 5600  
Cleveland, Ohio 44101

Anne L. Kilbane, J:

{¶1} Ray Perry is attempting to reopen, for the second time, the appellate judgment that was rendered in *State v. Perry* (May 12, 1994), Cuyahoga App. No. 65455. In that opinion, we affirmed his convictions for felonious assault, aggravated burglary and carrying a concealed weapon. For the following reasons, we deny his second application to reopen, sua sponte.

{¶2} There is no right to file successive applications for reopening pursuant to App.R. 26(B).<sup>1</sup> Additionally, the doctrine of res judicata prohibits this court from considering Perry's second application for reopening because his new claim of ineffective assistance of appellate counsel was or could have been raised through his initial application for reopening.<sup>2</sup> In fact, Perry raises the same arguments as those in his original application to

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<sup>1</sup> *State v. Richardson* (1996), 74 Ohio St.3d 235, 658 N.E.2d 273; *State v. Cheren* (1995), 73 Ohio St.3d 137, 652 N.E.2d 707; *State v. Peeples* (1995), 73 Ohio St.3d 149, 652 N.E.2d 717; *State v. Sherrills* (Sept. 18, 1997), Cuyahoga App. No. 56777, reopening disallowed, (Mar. 6, 2001), Motion No. 24318.

<sup>2</sup> *State v. Phelps* (Sept. 30, 1996), Cuyahoga App. No. 69157, second reopening disallowed (Nov. 30, 1998), Motion No. 79992; *State v. Brantley* (June 29, 1992), Cuyahoga App. No. 62412, second reopening disallowed (May 22, 1996), Motion No. 72855.

reopen which this court denied.<sup>3</sup>

{¶3} Accordingly, Perry's second application for reopening is denied.

COLLEEN CONWAY COONEY, J., AND

DIANE KARPINSKI, J., CONCUR

ANNE L. KILBANE  
JUDGE

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<sup>3</sup> *State v. Perry* (Dec. 18, 1997), Cuyahoga App. No. 65455.