

[Cite as *State v. Zayid*, 2002-Ohio-6225.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 77644

STATE OF OHIO	:	
	:	
	:	
Plaintiff-Appellee	:	JOURNAL ENTRY
	:	AND
v.	:	OPINION
	:	
AQUIL ZAYID	:	
	:	
	:	
Defendant-Appellant	:	

DATE OF JOURNALIZATION:	NOVEMBER 14, 2002
CHARACTER OF PROCEEDING:	Application for Reopening Motion No. 72855. Lower Court No. CR 383316 Court of Common Pleas
JUDGMENT:	Application Denied.

APPEARANCES:

For Plaintiff-Appellee:	For Defendant-Appellant:
WILLIAM D. MASON Cuyahoga County Prosecutor SHERRY F. MCCREADY Assistant Prosecuting Attorney The Justice Center 1200 Ontario Street Cleveland, Ohio 44113	Aquil Zayid, Pro Se #385-736 Mansfield Correctional Institution P.O. Box 788 Mansfield, Ohio 44901

Judge Kenneth A. Rocco:

{¶1} On September 18, 2002, Aquil Zayid filed a second application for reopening pursuant to App. R. 26(B). He is again attempting to reopen the appellate judgment that was rendered by this court in *State v. Clifford Patrick, AKA Aquil Zayid*, (Aug. 17, 2000), Cuyahoga App. No. 77644. In that opinion, we affirmed Mr. Zayid's plea to one count of kidnapping and one count of attempted rape. The record indicates that Mr. Zayid filed his first application to reopen pursuant to App.R. 26(B) on June 29, 2001. This court denied that application on August 27, 2001. For the following reasons, we sua sponte deny Mr. Zayid's second application to reopen.

{¶2} Mr. Zayid's second application to reopen is not well taken because there is no right to file successive applications for reopening pursuant to App.R. 26(B). *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. Towns* (Nov. 3, 1997), Cuyahoga App. No. 71244, reopening disallowed, (Apr. 22, 2002), Motion No. 37343; *State v. Sherrills* (Sept. 18, 1997), Cuyahoga App. No. 56777, reopening disallowed, (Mar. 6, 2001), Motion No. 24318; and *State v. Stewart* (Nov. 19, 1998), Cuyahoga App. No. 73255, reopening

disallowed, (Nov. 2, 2001), Motion No. 32159. "Neither Murnahan nor App.R. 26(B) was intended as an open invitation for persons sentenced to long periods of incarceration to concoct new theories of ineffective assistance of appellate counsel in order to have a new round of appeals." *State v. Reddick* (1995), 72 Ohio St.3d 88, 647 N.E.2d 784

{¶3} Furthermore, the doctrine of Res Judicata prohibits this court from considering Mr. Zayid's second application for reopening because his new claims of ineffective assistance of appellate counsel could have been raised in his initial application to reopen. *Stewart; Fuller; State v. Phelps* (Sept. 30, 1996), Cuyahoga App. No. 69157, second reopening disallowed (Nov. 30, 1998), Motion No. 79992; and *State v. Brantley* (June 29, 1992), Cuyahoga App. No. 62412, second reopening disallowed (May 22, 1996), Motion No. 72855.

{¶4} Accordingly, Mr. Zayid's second application for reopening is denied.

JAMES D. SWEENEY, J. and

DIANE KARPINSKI, J. CONCUR.

KENNETH A. ROCCO
PRESIDING JUDGE