

[Cite as *State v. Williams*, 2019-Ohio-4780.]

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

STATE OF OHIO, :  
 :  
 Plaintiff-Appellee, :  
 : No. 106266  
 v. :  
 :  
 REGINALD D. WILLIAMS, :  
 :  
 Defendant-Appellant. :

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JOURNAL ENTRY AND OPINION

**JUDGMENT: APPLICATION DENIED**  
**RELEASED AND JOURNALIZED: November 20, 2019**

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Cuyahoga County Court of Common Pleas  
Case No. CR-16-612202-A  
Application for Reopening  
Motion No. 530307

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***Appearances:***

Michael C. O'Malley, Cuyahoga County Prosecuting  
Attorney, and Gregory J. Ochocki, Assistant Prosecuting  
Attorney, *for appellee*.

Reginald D. Williams, *pro se*.

LARRY A. JONES, SR., J.:

{¶ 1} Reginald D. Williams has filed an application for reopening pursuant to App.R. 26(B). Williams is attempting to reopen the appellate judgment rendered in *State v. Williams*, 8th Dist. Cuyahoga No. 106266, 2018-Ohio-3368, which affirmed his conviction and the sentence of incarceration imposed in *State v. Williams*, Cuyahoga C.P. No. CR-16-612202, for the offenses of rape, aggravated robbery, and kidnapping. We decline to reopen Williams's appeal.

{¶ 2} App.R. 26(B)(2)(b) requires that Williams 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 Amay 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 C unlike so many other Ohio criminal defendants C 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, Williams is attempting to reopen the appellate judgment that was journalized on August 23, 2018. The application for reopening was not filed until July 17, 2019, more than 90 days after journalization of the appellate judgment in *Williams, supra*. Thus, the application for reopening is untimely on its face.

{¶ 4} In an attempt to argue good cause for the untimely filing of the application for reopening, Williams argues that:

The prejudice and deficient performance goes beyond the ability of the defendant to identify constitutional error within the time allotted — counsel simply did not transmit defendant’s claims to the higher state court — in which there exists a reasonable probability of a successful appeal.

{¶ 5} Williams’s argument as to good cause amounts to the claims that he could not have discovered the issues earlier because he was ignorant of the law and did not have counsel who discovered the purported errors. However, this court has previously found that such arguments do not constitute good cause. *State v. Orr*, 8th Dist. Cuyahoga No. 96377, 2014-Ohio-2384, ¶ 5 (ignorance of the law does not constitute good cause); *State v. Russell*, 8th Dist. Cuyahoga No. 69311, 1997 Ohio App. LEXIS 2663 (Jan. 1, 1997), quoting *State v. Miller*, 8th Dist. Cuyahoga No. 59987, 1992 Ohio App. LEXIS 1083 (Mar. 23, 1992), *reopening disallowed*, motion No. 79261 (Mar. 18, 1997) (neither lack of counsel nor ignorance of the law have been accepted as constituting good cause for delayed filings). Therefore, Williams

has failed to establish a showing of good cause for the untimely filing of his application for reopening.

{¶ 6} In addition, the Supreme Court of Ohio has established that good cause cannot excuse the lack of timely filing for an indefinite period of time: “Even if we were to find good cause of earlier failures to file, any such good cause has long evaporated. Good cause can excuse the lack of filing only while it exists, not for an indefinite period.” *State v. Fox*, 83 Ohio St.3d 514, 516, 1998-Ohio-517, 700 N.E.2d 1253, 1254. *State v. Davis*, 86 Ohio St.3d 212, 214, 1999-Ohio-160, 714 N.E.2d 384.

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

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LARRY A. JONES, SR., JUDGE

MARY EILEEN KILBANE, A.J., and  
RAYMOND C. HEADEN, J., CONCUR

