

OPINIONS OF THE SUPREME COURT OF OHIO

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The State of Ohio, Appellee, v. Goney, Appellant.

[Cite as State v. Goney (1995), Ohio St. 3d .]

Appellate procedure -- App.R. 26(B) -- Application for reopening appeal from judgment and conviction based, inter alia, on claim of ineffective assistance of appellate counsel -- Application denied when errors present matters outside the record and, thus, are not appropriate for direct appeal.

(No. 94-2590 -- Submitted March 21, 1995 -- Decided June 14, 1995.)

Appeal from the Court of Appeals for Montgomery County, No. 13474.

Appellant, Thomas B. Goney, was convicted of rape, in the Court of Common Pleas of Montgomery County. He appealed, alleging that it was error for the trial court to admit evidence of his prior conviction for bank robbery to impeach his testimony. The court of appeals disagreed and affirmed the conviction. State v. Goney (1993), 87 Ohio App. 3d 497, 622 N.E.2d 688.

Subsequently, appellant filed an application to reopen his appeal under App. R. 26(B), alleging, inter alia, ineffective assistance of appellate counsel for failure to allege the ineffective assistance of trial counsel. The court of appeals held that several of the errors presented matters outside the record and thus were not appropriate for direct appeal. The court also found that appellant failed to demonstrate prejudice in the other claims and denied the application to reopen. Appellant now appeals to this court.

Mathias H. Heck, Jr., Montgomery County Prosecuting Attorney, and Carley J. Ingram, Assistant Prosecuting Attorney, for appellee.

Thomas B. Goney, pro se.

Per Curiam. We affirm the judgment of the court of appeals for the reasons stated in its opinion.

Judgment affirmed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney,

Pfeifer and Cook, JJ., concur.