

1 The State of Ohio, Appellee, v. Yauger, Appellant.

2 [Cite as *State v. Yauger* (1996), _____ Ohio St. 3d_____.]

3 *Appellate procedure -- Application for reopening appeal from judgment*
4 *and conviction based on claim of ineffective assistance of appellate*
5 *counsel -- Application denied when there is no evidence that*
6 *applicant's counsel's performance fell below an objective standard*
7 *of reasonable representation and thus prejudiced applicant.*

8 (No. 96-719 -- Submitted June 4, 1996 -- Decided July 31, 1996.)

9 Appeal from the Court of Appeals for Tuscarawas County, No. 93AP

10 080055.

11 Appellant, Ricky Yauger, was convicted in July 1993 of aggravated robbery
12 with a gun specification. The trial court sentenced Yauger to prison, and the court
13 of appeals affirmed. *State v. Yauger* (Jan. 10, 1995), Tuscarawas App. No.
14 93AP080055, unreported, 1995 WL 42490.

15 On March 23, 1995, appellant filed an application with the court of appeals
16 to reopen his appeal under App.R. 26(B), alleging the ineffective assistance of
17 appellate counsel. Although at first the court of appeals reinstated the appeal, the
18 court dismissed the appeal on May 22, 1995 for want of prosecution. On June 15,
19 1995, appellant filed a motion to reinstate his appeal and a motion for appointment

1 of counsel. The court of appeals reinstated the appeal and appointed counsel. (Ex.
2 A, Appellee’s brief).

3 Although the court of appeals reinstated the appeal, it reaffirmed the trial
4 court’s judgment, finding, *inter alia*, no evidence that appellate “counsel’s
5 performance fell below an objective standard of reasonable representation and
6 thus prejudiced appellant.” Appellant has now appealed that decision to this court.

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8 *Scott J. Mastin*, Tuscarawas County Assistant Prosecuting Attorney, for
9 appellee.

10 *Ricky Yauger, pro se.*

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12 *Per Curiam.* We affirm the judgment of the court of appeals for the reasons
13 stated in its decision.

14 *Judgment affirmed.*

15 MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and
16 STRATTON, JJ., concur.

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