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

2 [Cite as *State v. Howe* (1996), \_\_\_\_\_ Ohio St.3d \_\_\_\_\_]

3	Appellate procedure Application for reopening appeal from
4	judgment and conviction based on claim of ineffective
5	assistance of appellate counsel Application denied when no
6	genuine issue is raised as to whether applicant was denied
7	the effective assistance of appellate counsel Petition for
8	postconviction relief Allegation that co-defendants were
9	coerced into falsely implicating petitioner in crimes for which
10	he was convicted Petition denied when allegations of
11	coerced testimony were satisfactorily rebutted by trial record.
12	(Nos. 96-468 and 96-676Submitted May 21, 1996Decided August
13	21, 1996.)

14 APPEALS from the Court of Appeals for Montgomery County, Nos.

15 13969 and 15139.

In March 1993, appellant Weston Howe, Jr., was convicted of
aggravated murder, aggravated robbery, aggravated burglary and having a
weapon under disability, and was sentenced to prison. Upon appeal, the
convictions were affirmed. *State v. Howe* (Sept. 30, 1994), Montgomery
App. No. 13969, unreported.

1	In case No. 96-468, on December 21, 1994, appellant filed an
2	application to reopen his appeal pursuant to App.R. 26(B), alleging
3	ineffective assistance of appellate counsel. However, the court of appeals
4	was unable to rule on the application because pending appeals before this
5	court divested it of its jurisdiction under S.Ct.Prac.R. II (2)(D)(1). See State
6	v. Howe (1995), 73 Ohio St.3d 35, 652 N.E.2d 193. Eventually, the court of
7	appeals obtained jurisdiction to rule on appellant's App.R. 26(B)
8	application. On January 24, 1996, the court of appeals denied the
9	application, finding no genuine issue as to whether appellant was denied the
10	effective assistance of appellate counsel. Appellant appeals that denial to
10 11	effective assistance of appellate counsel. Appellant appeals that denial to this court.
11	this court.
11 12	this court. With respect to case No. 96-676, on July 8, 1994, appellant filed a
11 12 13	this court. With respect to case No. 96-676, on July 8, 1994, appellant filed a petition for postconviction relief before the court of common pleas. The
<ol> <li>11</li> <li>12</li> <li>13</li> <li>14</li> </ol>	this court. With respect to case No. 96-676, on July 8, 1994, appellant filed a petition for postconviction relief before the court of common pleas. The petition was supported by an affidavit from a co-defendant, alleging that
<ol> <li>11</li> <li>12</li> <li>13</li> <li>14</li> <li>15</li> </ol>	this court. With respect to case No. 96-676, on July 8, 1994, appellant filed a petition for postconviction relief before the court of common pleas. The petition was supported by an affidavit from a co-defendant, alleging that appellant's co-defendants were coerced into falsely implicating appellant in

1	Upon appeal, the court of appeals affirmed the trial court's dismissal
2	of postconviction relief in case No. 96-676 in the same opinion in which it
3	rejected appellant's application to reopen in case No. 96-468. The court of
4	appeals found the co-defendant's allegations of coerced testimony were
5	satisfactorily rebutted by the trial record. See State v. Brooks (Mar. 10,
6	1994), Cuyahoga App. No. 65088, unreported (appeal dismissed [1994], 70
7	Ohio St.3d 1425, 638 N.E.2d 87). This appeal followed.
8	Mathias H. Heck, Jr., Montgomery County Prosecuting Attorney, and
9	George A. Katchmer, Assistant Prosecuting Attorney, for appellee.
10	Weston L. Howe, Jr., pro se.
11	Per Curiam. We affirm the judgments of the court of appeals for the
12	reasons stated in its opinion.
13	Judgments affirmed.
14	MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK
15	and STRATTON, JJ., concur.
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