

STATE OF OHIO)
COUNTY OF LORAIN)

FILED
LORAIN COUNTY
2017 FEB -2 P 1:18
COURT OF COMMON PLEAS
TOM ORLANDO

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 14CA010555

Appellee

v.

CLIFTON JACKSON

Appellant

JOURNAL ENTRY

On January 17, 2017, Appellant, Clifton Jackson, filed a "Request for Leave to File Appellant's Application for Reopening of His Direct Appeal Under App.R. 26(B) Delayed." This Court determined Jackson's direct appeal in a decision dated and journalized on June 22, 2015. *See State v. Jackson*, 9th Dist. Lorain No. 14CA010555, 2015-Ohio-2473.

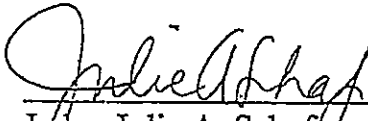
Pursuant to App.R. 26(B), Jackson was required to file his application for reopening within 90 days of the journalization of our judgment entry. "Consistent enforcement of the rule's deadline by the appellate courts in Ohio protects on the one hand the state's legitimate interest in the finality of its judgments and ensures on the other hand that any claims of ineffective assistance of appellate counsel are promptly examined and resolved." *State v. Gumm*, 103 Ohio St.3d 162, 2004-Ohio-4755, ¶ 7.

Here, this Court issued its judgment entry and opinion in the direct appeal giving rise to this proceeding on June 22, 2015. To be considered timely, Jackson must have filed his application for reopening on or before September 21, 2015. Jackson, however,

filed his application on January 17, 2017, nearly 16 months beyond the time provided for in App.R. 26(B). Jackson concedes that his application is untimely. If an application for reopening is not filed within the 90-day period set forth in App.R. 26(B)(1), an appellant must make a showing of good cause for the untimely filing. App.R. 26(B)(2)(b).

In arguing the existence of good cause, Jackson contends that his appellate counsel refused to communicate with him, which compromised his “abilities to receive appropriate appellate review.” Jackson also argues that he received late notification of this Court’s June 22, 2015 decision. However, a review of the docket indicates that Jackson appealed this Court’s decision to the Supreme Court of Ohio on September 3, 2015. The notice of appeal is signed by Jackson and dated August 20, 2015. Jackson was thus aware of this Court’s June 22, 2015 decision at least one month before the timeframe for filing his application for reopening under App.R. 26(B) had expired. Accordingly, Jackson has failed to demonstrate good cause for the delay in seeking reopening.

Appellant’s application is denied.



Judge Julie A. Schafer

Concur:
Hensal, P.J.
Moore, J.