

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
 :
 Plaintiff-Appellee, : Appeal taken from Third District Court of
 : Appeals, Crawford County,
 : Case No. 98 AP 0005
 v. :
 : **07 - 1854**
 KEVIN KEITH, : Case No.
 :
 Defendant-Appellant. : **This is a death penalty case.**

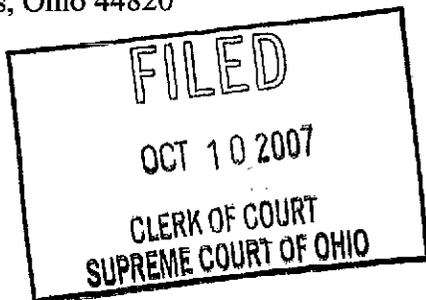
APPEAL FROM THE COURT OF APPEALS,
THIRD APPELLATE DISTRICT
CASE NO. 98 AP 0005

NOTICE OF APPEAL OF APPELLANT KEVIN KEITH

STANLEY FLEGM
Crawford County Prosecutor

CLIFFORD J. MURPHY (0063519)
Assistant County Prosecutor

Crawford County Courthouse
112 East Mansfield Street
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Bucyrus, Ohio 44820



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DAVID BODIKER
State Public Defender

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COUNSEL FOR KEVIN KEITH

IN THE SUPREME COURT OF OHIO

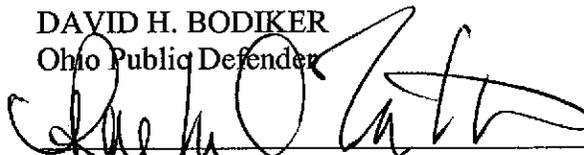
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NOTICE OF APPEAL

Appellant, Kevin Keith, hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Court of Appeals, Third Appellate District, entered in **State v. Keith**, case number 98 AP 005 on September 19, 2007, denying appellant's application for the reopening of his direct appeal. This is an appeal as of right. State v. Murnahan, 63 Ohio St.3d 60 (1992). The appellant is under a sentence of death for an offense committed prior to January 1, 1995. S.Ct. Prac.R. II(1)(A)(1).

Respectfully submitted,

DAVID H. BODIKER
Ohio Public Defender



RACHEL TROUTMAN - 0076741
Assistant State Public Defender
Counsel of Record



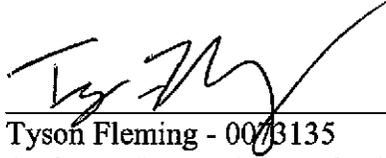
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing NOTICE OF APPEAL was served by regular U.S. Mail to Clifford J. Murphy, Assistant County Prosecutor, Crawford County Courthouse, 112 East Mansfield Street, Rm. 305, Bucyrus, Ohio 44820 on this the 10th day of October, 2007.



Tyson Fleming - 0073135
Assistant State Public Defender

COUNSEL FOR KEVIN KEITH

COPY

FILED IN THE COURT OF APPEALS

SEP 19 2007

SUE SEEVERS
CRAWFORD COUNTY CLERK

IN THE COURT OF APPEALS OF THE THIRD APPELLATE JUDICIAL DISTRICT OF OHIO

CRAWFORD COUNTY

STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 3-98-05

v.

KEVIN KEITH,

**JOURNAL
ENTRY**

DEFENDANT-APPELLANT.

This cause comes before the Court on appellant's application for reopening of direct appeal pursuant to App.R. 26(B), motion to correct appellate record, motion to file documents under seal, motion to transfer documents, and appellee's response in opposition to the motions.

Upon consideration the Court finds that appellant's application was filed on August 3, 2007, and the appellate judgment was filed on April 5, 1996. The application was clearly not filed within ninety days of the judgment, as required by App.R. 26(B)(1). The ninety-day requirement in the rule is applicable to all appellants. See *State v. Twyford* (2005), 106 Ohio St.3d 176; and *State v. Winstead* (1996), 74 Ohio St.3d 277.

Appellant also argues that he was precluded for more than eleven years

from filing the application to reopen because he was represented by the same two or three attorneys throughout his direct appeals, federal court proceedings, and successor post-conviction actions. Appellant asserts that he is unskilled at law and, thus, could not have called these attorneys ineffective. The Court finds such argument to be without merit and, therefore, we find no “good cause” for the application being filed untimely. App.R. 26(B)(1) and 26(B)(2)(b). Contrary to his assertion, we do not agree that appellant raises this claim “at the earliest time possible.” Appellant may not rely on his own alleged lack of legal training to excuse his failure to comply to the most basic of requirements. See *State v. Otis* (1995), 73 Ohio St.3d 39; and *State v. Mitts*, 8th App.No. 68612, 2002-Ohio-7457.

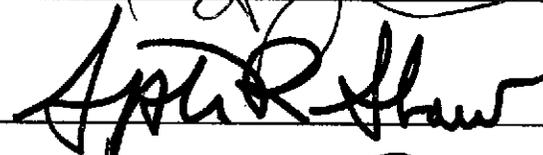
Accordingly, the application for reopening is not well taken. Because there is no appeal pending in this Court, the remaining motions are denied as moot.

It is therefore **ORDERED** that appellant’s application for reopening of direct appeal, motion to correct appellate record, motion to file documents under seal, and motion to transfer documents be, and the same hereby are, **DENIED** at the costs of the appellant for which judgment is hereby rendered.

It is further **ORDERED** that the envelope containing the alleged “original” exhibits C through O to appellant’s application and motion to supplement, having

been improperly filed on July 20, 2007, is stricken from the record and the Clerk of this Court is instructed to immediately return same to counsel for appellant.





Vernon Z. Burton

JUDGES

DATED: September 19, 2007

/jlr