

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2021

ISMAEL RUIZ,

Petitioner,

v.

THE STATE OF WYOMING,

Respondent.

IN THE SUPREME COURT
STATE OF WYOMING
FILED

S-21-0235

NOV - 9 2021

SHAWNA GOETZ, CLERK

ORDER DENYING PETITION FOR WRIT OF CERTIORARI

This matter came before the Court upon a Petition for Permission to File Late Direct Appeal, filed herein October 21, 2021. After a review of the petition, the materials attached thereto, the Response to Petition for Permission to File Late Direct Appeal, Petitioner's Reply to State's Response for Permission to File Petition of Late Direct Appeal, and the file, the Court finds the petition should be denied. Petitioner seeks an untimely appeal to challenge his conviction for aggravated assault and battery, which was entered in a December 11, 2018 Judgment and Sentence. This Court interprets Petitioner's request for relief as a petition for writ of certiorari. *See Foote v. State*, 751 P.2d 884, 887 (Wyo. 1988) (finding that certiorari may be granted to allow an untimely appeal "without insisting that the remedy of a post-conviction proceeding be pursued"). Petitioner claims his trial counsel was ineffective in recommending a guilty plea rather than pursuing a claim of self-defense. However, Petitioner does not claim he timely instructed his trial counsel to file a notice of appeal or that his trial counsel was ineffective regarding the decision to appeal. *Roe v. Flores-Ortega*, 528 U.S. 470, 477, 120 S.Ct. 1029, 1035, 145 L.Ed.2d 985 (2000) ("[A] defendant who instructs counsel to initiate an appeal reasonably relies upon counsel to file the necessary notice. Counsel's failure to do so cannot be considered a strategic decision; filing a notice of appeal is a purely ministerial task, and the failure to file reflects inattention to the defendant's wishes."). As a result, this Court finds the petition should be denied. *Foote*, 751 P.2d at 885-87. It is, therefore,

ORDERED that Ismael Ruiz be allowed to proceed in this matter *in forma pauperis*; and it is further

ORDERED that the petition for writ of certiorari, filed herein October 21, 2021, be, and hereby is, denied.

DATED this 9th day of November, 2021.

BY THE COURT:

Kate M. Fox

KATE M. FOX
Chief Justice

SUPREME COURT OF WYOMING

OFFICE OF THE CLERK

SHAWNA GOETZ, CLERK
LAURA MICKEY, CHIEF DEPUTY



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November 29, 2021

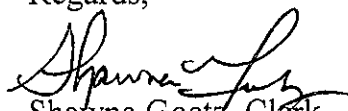
Ismael Ruiz
#32741
WHF
40 Honor Farm Road
Riverton, WY 82501-9411

Re: S-21-0235 Motion for Rehearing En Banc

Dear Mr. Ruiz:

Enclosed please find the above titled document you submitted for filing in the Wyoming Supreme Court. This office is unable to file the document as your petition was denied and the case closed November 9, 2021. All Petitions for Review are considered by the full court, the Supreme Court does not sit in panels.

Regards,


Shawna Goetz, Clerk

Encls.

cc: Joshua Charles Eames...

**Additional material
from this filing is
available in the
Clerk's Office.**