

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.

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 2019

ISMAEL RUIZ,

Appellant
(Defendant),

v.

THE STATE OF WYOMING,

Appellee
(Plaintiff).

S-20-0007

ORDER GRANTING MOTION FOR EXTENSION OF TIME TO FILE *PRO SE* BRIEF

This matter came before the Court upon the motion of Kirk A. Morgan requesting that the Public Defender be allowed to withdraw pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). The "Motion to Withdraw as Counsel" was e-filed on February 27, 2020. The same day, counsel filed an *Anders* brief and a "Motion for Extension of Time to File *Pro Se* Brief." At this time, the Court finds that the motion for extension of time should be granted. Appellant shall be permitted to file a *pro se* brief specifying the issues he would like the Court to consider. A "pro se brief" is identified as a brief that is filed by the appellant without the assistance of his attorney. In preparing his brief or pleading, Appellant should consult the Wyoming Rules of Appellate Procedure, particularly Rule 7. It is, therefore,

ORDERED that on or before **April 16, 2020**, Appellant may file with this Court a *pro se* brief specifying the issues he would like this Court to consider in this appeal; and, further,

NOTICE is hereby provided that, after Appellant files the *pro se* brief (or, if Appellant does not file the same, after the time to file has passed), this Court will consider the *Anders* brief along with any *pro se* brief or pleading. The Court will then make its ruling on counsel's motion to withdraw and, if appropriate, make a final decision on this appeal. The State of Wyoming need not file any brief or pleading unless this Court orders otherwise.

DATED this 28th day of February, 2020.

FOR THE COURT:

/S/
MICHAEL K. DAVIS
CHIEF JUSTICE

SUPREME COURT OF WYOMING
OFFICE OF THE CLERK

PATRICIA BENNETT, CLERK
LAURA MICKEY, CHIEF DEPUTY
SHAWNA GOETZ, DEPUTY



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May 15, 2020

Donna Lee Bobak
Clerk of District Court
P.O. Box 430
Green River WY 82935-0430

Re: ISMAEL RUIZ v. THE STATE OF WYOMING
Case S-20-0007 (Dist. Ct. No. CR-2018-156)

Dear Ms. Bobak:

The mandate issued in this cause today is being sent to you under separate cover, together with the record on appeal, three volumes (Volume 1, Original Papers; Volume 2, Redaction Sleeve; Volume 3, Transcripts (4)). This case is now closed in the Wyoming Supreme Court.

Sincerely,

Patricia Bennett, Clerk

A handwritten signature in black ink, appearing to read "Shawna Goetz", with the words "by deputy" written below it.

cc:

Ismael Ruiz
Joshua Charles Eames