

The Court of Appeals
47 Trinity Avenue NW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

October 13, 2015

Mr. Lonny Ireland
GDC11792295 Y-1-B
Hays State Prison
Post Office Box 668
Trion, Georgia 30753

Dear Mr. Ireland:

I am in receipt of your letter of postmark date October 6, 2015. Our Court granted your application for discretionary appeal on August 20, 2015. The order was mailed to the address that you provided us, "Hays State Prison, Y-1-B, Post Office Box 668, Trion, Georgia 30753" on August 21, 2015. Based upon our Court granting your application, you had ten days to file a Notice of Appeal in the trial court. Once the trial court gets your Notice of Appeal, they put the record together and send the case to us for docketing. We have not received a case from Gwinnett Superior Court in your name and therefore, have not docketed your case.

We note that you submitted a Brief on August 27, 2015, and a Motion for Oral Argument. However, there is no pending case to docket the Brief and motion against. It appears that you believe your case was docketed in this Court. That is not accurate as there is no pending case in our Court in your name.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

PRESIDENT ADMINISTRATOR
OFFICER MR. STEPHEN E.
CASTLEN, FOR GEORGIA
COURT OF APPEAL 47 TRINITY
AVE SW, SUITE 301 ATLANTA
GA. 30334.

RECEIVED IN OFFICE DATE
2015 OCT -6 AM 10:53 9-30-2015
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

DEAR MR. CASTLEN. I AM IN COMMUNICATION FOR A
RECEIPT UNTO THIS LETTER, INVOLVED THE STATUS,
OF CASE LUNNY M IRELAND VS. THE STATE Doc.
NUMBER 15D0527. SIR I HAVN'T RECEIVED
A DOCKET NOTICE FOR MY TIMELY APPELLATE
BRIEF, THAT IS SUBMITTED ON AUGUST 27TH DAY
OF 2015. FURTHERMORE APPELLEE IS NOT COMPLIANCE
WITH ENACTED COURT OF APPEAL RULE 23 (). CONSIST
OF NOT FILING THEIR BRIEF COMPLY TOO RULE 23. (b)
40 DAYS AFTER APPELLATE BRIEF DOCKETED. WHICH IS
CONTEMPT AS BEING DISMISSED FOR WANT OF
PROSECUTION IN OR ON THERE PORTIONS OF THIS CASE
PROCEDURE. YOUR ASSISTANCE IN THIS MATTER IS
VERY WELL APPRECIATE.

15D0527
Granted 8/11/15

MR. Low His brief on 8/27/15 was docketed as a supplement to 15D0527.

- No Direct appeal docketed with the Court.

2 IRELAND G.D.C. 1179295
X-1B bed 31. HAYS STATE PRISON PO BOX
666 TRINITY GA 30753

CERTIFICATE OF SERVICE

I LUNNY M. IRELAND has declare And sworn on this 30 day of
September 2015. I have ATTACHED A CERTIFICATE OF SERVICE there to
this letter to the ~~AD~~ PRESIDENT CLERK FOR COURT OF APPEAL, before
DEPOSITED IN U.S. MAIL, WITH SUFFICIENT POSTAGE ATTACHED TO
ENVELOPE, ADDRESSED ~~FOR~~ FOR DELIVER TO PERSON(S) LISTED HERE
PRESIDENT ADMINISTRATOR OFFICER MR. STEPHEN E. CASTLEN FOR GEORGIA
COURT OF APPEAL 47 TRINITY AVE STE 301 ATLANTA GA 30334 DISTRICT
ATTORNEY OFFICE, PRUNY PORTER 75 LAWLEY DR LAWRENCEVILLE GA 30046

Place of Birth
LUNNY M IRELAND
G.D.C. 1179295
HAYS STATE
PRISON PO BOX
666 TRINITY GA 30753

Steve Castlen - Please send this letter out

From: Steve Castlen
To: Lola Diamond
Subject: Please send this letter out

Mr. Ireland,

I am in receipt of your letter of October 6. Our Court granted your application for a discretionary appeal on August 20. That was mailed to the address that you provided us, i.t. "HAYS STATE PRISON Y-1-B, P.O. BOX 668, TRION, GA 30753" on August 21, 2015. Based upon our Court granting your application you had ten days to file a notice of appeal in the trial court. Once the trial court gets your notice of appeal, they put the record together and sent the case to us for docketing. We have not received any case from Gwinnett Superior Court and, therefore, have not docketed your case. We have no pending case in your name.

We note that you submitted a brief on August 27, 2015, and a motion for oral argument. However, there is no pending case to docket that brief and motion against. It appears that you believe that you case was docketed in this court. That is not accurate as there is no pending case in our court.

Court of Appeals of the State of Georgia

ATLANTA, August 20, 2015

The Court of Appeals hereby passes the following order:

A15D0527. LONNY M. IRELAND v. THE STATE.

In 2004, Lonny Ireland pled guilty to two counts of aggravated assault, two counts of kidnapping with bodily injury, aggravated sexual battery, aggravated sodomy, and possession of a firearm or knife during the commission of a felony. He later filed a pro se motion for out-of-time appeal, which the trial court denied. Ireland then applied for discretionary review in the Supreme Court, which transferred the case here.

A defendant who pled guilty may be entitled to an out-of-time appeal if a direct appeal was not taken due to ineffective assistance of counsel and the issue on appeal can be resolved by reference to facts on the record. *Hicks v. State*, 281 Ga. 846, 836-837 (642 SE2d 31) (2007). “The denial of a motion for out-of-time appeal is directly appealable when the criminal conviction at issue has not been the subject of direct appeal.” *Grace v. State*, 295 Ga. 657, 658 (763 SE2d 461) (2014). Thus, Ireland had a right of direct appeal here.

We will grant a timely discretionary application if the lower court’s order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED, and Ireland shall have ten days from the date of this order to file a notice of appeal with the trial court. If he has already filed a notice of appeal in the trial court, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/20/2015

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Stephen E. Costello

, Clerk.

