



SUPREME COURT OF GEORGIA
Case No. S19D1415

July 12, 2019

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DOUGLAS G. BURLEY v. THE STATE.

Applicant pled guilty to murder in 1992. On May 6, 2019, Applicant filed in the trial court a “Supplemental Motion for an Out of Time Appeal Pursuant to O.C.G.A. § 9-11-15 (d),” seeking an out-of-time appeal and the appointment of counsel in connection therewith. The trial court denied the motion, and, within 30 days thereafter, applicant filed in the Court of Appeals an “Application for Certificate of Probable Cause.” The Court of Appeals construed that filing as an application for discretionary appeal and transferred it to this Court, pursuant to our jurisdiction over “[a]ll cases in which a sentence of death was imposed or could be imposed.” See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (8).

Because his conviction has not been the subject of a direct appeal, Applicant is entitled to an appeal of right from the order denying his motion for out-of-time appeal. See *Stephens v. State*, 291 Ga. 837 (1) (733 SE2d 266) (2012). Accordingly, in accordance with OCGA § 5-6-35 (j), the application is hereby granted. Applicant must file his notice of appeal in the trial court within ten days of the date shown above.

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

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

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

 , Clerk