

**THE STATE OF OHIO, APPELLEE, v. LUNA, APPELLANT.**

**[Cite as *State v. Luna*, 1995-Ohio-9.]**

*Appellate procedure—Application for reopening appeal from judgment and conviction based on claim of ineffective assistance of appellate counsel—Application denied when applicant fails to assert a colorable claim of ineffective assistance of appellate counsel.*

(No. 94-233—Submitted April 24, 1995—Decided August 9, 1995.)

APPEAL from the Court of Appeals for Huron County, No. H-93-24.

---

{¶ 1} Appellant, Michael K. Luna, was convicted of marijuana possession with a specification of a prior drug abuse felony and sentenced to from four to fifteen years in prison.

{¶ 2} The court assigned appellant a series of three appellate attorneys, each withdrawing after appellant moved to dismiss them. Throughout this time appellant represented himself by filing various pro se motions and his own assignments of error. *State v. Luna* (May 16, 1994), Huron App. No. H-93-24, unreported. After appellant's third motion to dismiss and request for a fourth counsel, the court of appeals construed appellant's conduct to be an effective waiver of his right to appointed counsel.

{¶ 3} Appellant filed a pro se application to reopen on September 9, 1994. He argued that he was ineffective as his own appellate counsel after being forced to represent himself by the incompetency of appointed counsel. Appellant stated he failed to include two assignments of error in his appeal and was therefore ineffective. Appellant also contended the courts had conspired to alter his transcript, thereby undermining effective assistance of any counsel.

SUPREME COURT OF OHIO

{¶ 4} The court of appeals denied his application for reopening and motion to supplement same, stating appellant had "failed to assert a colorable claim of ineffective assistance of appellate counsel \* \* \*." Appellant now appeals to this court.

---

*Michael K. Luna, pro se.*

---

***Per Curiam.***

{¶ 5} We affirm the decision of the court of appeals for the reasons stated in its judgment entry.

*Judgment affirmed.*

MOYER, C.J., DOUGLAS, WRIGHT, RESNICK, F.E. SWEENEY, PFEIFER and COOK, JJ., concur.

---