



OFFICE OF THE CLERK

Supreme Court of Wisconsin

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WI 53701-1688

TELEPHONE (608) 266-1880

FACSIMILE (608) 267-0640

Web Site: www.wicourts.gov

November 19, 2020

To:

Hon. David A. Hansher
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St.
Milwaukee, WI 53233

Hon. William S. Pocan
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St., Rm. 401
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Donald V. Latorraca
Anthony Rusomanno
Winn S. Collins
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Elizabeth A. Longo
Assistant District Attorney
District Attorney's Office
821 W. State. St. - Ste. 405
Milwaukee, WI 53233

Robert N. Meyeroff
Robert N. Meyeroff, S.C.
633 W. Wisconsin Ave., #605
Milwaukee, WI 53203-1918

You are hereby notified that the Court has entered the following order:

No. 2020AP1910-W
No. 2018AP591-CR

Simmons v. Cromwell L.C.#2000CF3635
State v. Simmons L.C. #2000CF3635

A petition for review was filed by defendant-appellant, Antonio L. Simmons, on September 17, 2020, from the court of appeals' decision of July 21, 2020, which it declined to reconsider by order of August 17, 2020. By order of September 25, 2020, this court dismissed the petition for review as untimely. On October 13, 2020, counsel for defendant-appellant, Robert L. Meyeroff, filed a motion entitled "Motion to Allow Late Filing of Petition for Review" in which he acknowledges miscalculating the filing deadline for the petition for review. He asks the court to allow late filing of the petition for review.

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No. 2020AP1910-W

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IT IS ORDERED that the request is denied. The 30-day period in which to file a petition for review may not be enlarged. First Wisconsin National Bank of Madison v. Nicholaou, 87 Wis. 2d 360, 274 N.W.2d 704 (1979);

IT IS FURTHER ORDERED that the motion shall be construed as a petition for writ of habeas corpus having been filed on behalf of petitioner, State of Wisconsin ex rel. Antonio L. Simmons, assigned case number 2020AP1910-W and considered by this court;

IT IS FURTHER ORDERED that the petition for writ of habeas corpus is granted and the relief requested in the petition is granted, namely, that the petition for review filed in State v. Simmons, No. 2018AP591-CR, shall be reinstated and deemed timely-filed. See State ex rel. Nichols v. Litscher, 2001 WI 199, 247 Wis. 2d 1013, 635 N.W.2d 292; State ex rel. Schmelzer v. Murphy, 201 Wis. 2d 246, 548 N.W.2d 45 (1996);

IT IS FURTHER ORDERED that the State may file a response to the petition for review filed in State v. Simmons, No. 2018AP591-CR, no later than 14 days from the date of this order;

IT IS FURTHER ORDERED that the court will consider the documents filed in this matter and a decision on the petition for review will issue in due course.

Sheila T. Reiff
Clerk of Supreme Court