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Supreme Court of Wisconsin

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June 30, 2021

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You are hereby notified that the Court, by its Clerk and Commissioners, has entered the following order:

No. 2019AP2296-CR State v. Cannon L.C.#2011CF924

The court of appeals issued its final decision in this matter on May 25, 2021. A petition for review conforming to the requirements of Wis. Stat. § 808.10 and § (Rule) 809.62 must be filed in this court pursuant to Wis. Stat. § 809.80 within 30 days of the court of appeals' adverse decision. First Wisconsin National Bank of Madison v. Nicholaou, 87 Wis. 2d 360, 274 N.W.2d 704 (1979). Consequently, the deadline for filing a petition for review in this matter was June 24, 2021. Wis. Stat. § 808.10(1).

On June 24, 2021, counsel for defendant-appellant, Billy Joe Cannon, submitted an electronic copy of a petition for review and appendix via the appellate eFiling system. On June 29, 2021, the defendant-appellant filed paper copies of the petition for review and appendix, which

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lacked a handwritten signature by counsel and which appear to be printed copies of the electronically filed version of the petition for review.

Although this court has authorized the creation of an electronic filing (eFiling) pilot project in the court of appeals and in this court, see “In re Petition for the Creation of a Pilot Project and Interim Court Rule Governing Electronic Filing in the Court of Appeals and Supreme Court,” S. Ct. Order 19-02, 2019 WI 38 (issued April 15, 2019, effective April 15, 2019), cases that are not part of the eFiling pilot project in the particular appellate court remain subject to the existing rules regarding the filing of paper original documents. Petitions for review in this court therefore must be filed by delivering a signed paper original to the Clerk of the Supreme Court within 30 days of the court of appeals’ adverse decision. Wis. Stat. § 808.10(1), § 802.05, and § (Rule) 809.84. An electronic copy of the petition for review must also be filed with the Clerk of the Supreme Court. Wis. Stat. § (Rule) 809.62(4)(b). However, the physical filing of the paper original of the petition for review (not the electronic copy) is the determining factor for whether a petition for review is timely filed under Wis. Stat. § 808.10.

In this case, which is not part of the eFiling pilot project in this court, only paper copies of the electronically filed version of the petition for review appear to have been filed. Although unsigned by counsel, the court will accept a paper copy as the filing of a petition for review in this matter. The 30-day period in which a petition for review could have been filed, however, expired on June 24, 2021. Consequently, the petition for review is untimely and will be summarily dismissed. Accordingly,

IT IS ORDERED that the petition for review is dismissed as untimely. Moreover, the petition for review itself cannot be construed as a petition for a writ of habeas corpus. See State ex rel. Schmelzer v. Murphy, 201 Wis. 2d 246, 548 N.W.2d 45 (1996).

Sheila T. Reiff
Clerk of Supreme Court