



OFFICE OF THE CLERK

Supreme Court of Wisconsin

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October 18, 2021

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

No. 2021XX527-CR State v. Nieminski, L.C. #2018CF227

The petitioner, Jason Nieminski, pro se, has filed a petition for review of an August 10, 2021, court of appeals order that denied Nieminski's motion for appointment of postconviction or appellate counsel "either through the State Public Defender (SPD)'s office or at county expense, based upon an assertion of indigency." The court of appeals' order states in relevant part:

[T]his court does not make appointments of counsel based upon indigency, and Nieminski has not provided any information to show that the SPD or circuit court erred in denying his requests for counsel. While we have the authority to make a discretionary appointment of counsel, we have no budget to do so. It is our

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practice to ask an attorney to handle an appeal on a pro bono basis only when the issues to be raised are particularly complex or of statewide importance. See Roberta Jo W. v. Leroy W., 218 Wis. 2d 225, 240, 578 N.W.2d 185 (1998) (noting that where there is no statutory or constitutional right to appointed counsel, a court may use its discretion to appoint an attorney in the interest of the court itself). Nothing in the appellant's motion persuades us this is a case where a pro bono appointment of counsel is warranted.

In his petition to this court, Nieminski states that the Office of the State Public Defender denied Nieminski's initial request for appointment of post-conviction or appellate counsel on the grounds that he was not indigent, by letter dated January 29, 2020. Nieminski states that his financial circumstances have changed since his initial application. Nieminski claims that he formally requested the State Public Defender reevaluate his eligibility, but says that he did not receive a response. The State opposes the petition but has declined to file a formal response.

Before we consider Nieminski's petition, we request the Office of the State Public Defender advise this court, in writing, of the status of Nieminski's request for a reevaluation of his eligibility for appointment of counsel by the office of the State Public Defender. Therefore,

IT IS ORDERED that the court requests the Office of the State Public Defender advise this court, in writing, within 14 days of the date of this order, of the status of Nieminski's request that the Office of the State Public Defender reevaluate his eligibility for appointment of counsel.

Sheila T. Reiff
Clerk of Supreme Court