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**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](http://www.wicourts.gov)

October 18, 2021

**To:**

Hon. Jane M. Sequin  
Circuit Court Commissioner  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54305-3600

Sheila Dudka  
Clerk of Circuit Court  
Marinette County Courthouse  
1926 Hall Avenue  
Marinette, WI 54143

Katie R. York  
Appellate Division Director  
State Public Defender  
P.O. Box 7862  
Madison, WI 53707-7862

Winn S. Collins  
Wisconsin Dept. of Justice  
PO Box 7857  
Madison, WI 53707-7857

DeShea D. Morrow  
District Attorney  
1926 Hall Ave.  
Marinette, WI 54143

Jason Robert Nieminski 687796  
Oshkosh Correctional Inst.  
P.O. Box 3310  
Oshkosh, WI 54903-3310

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

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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.

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Sheila T. Reiff  
Clerk of Supreme Court