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Supreme Court of Wisconsin

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August 8, 2018

To:

Milwaukee County Circuit Court Judge
Br. 40
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You are hereby notified that the Court, by its Clerk and Commissioners, has entered the following order:

No. 2017AP135-CR

State v. Grady L.C.# 2014CF3988

On May 30, 2018, the court of appeals issued a decision adverse to defendant-appellant, Howard Grady.

On July 16, 2018, outside of the 30-day deadline for filing a petition for review, Mr. Grady filed a document in which he appeared to assert that his counsel, Attorney Stephen M. Compton, failed to file a timely petition for review of the court of appeals' decision. Mr. Grady seemed to suggest that he had not received any communications from Attorney Compton, and therefore had not received a copy of the court of appeals' decision.

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On July 19, 2018, we ordered Attorney Compton to respond to Mr. Grady's filing.

In an August 6, 2018 filing, Attorney Compton explains and documents that by letter of June 4, 2018, he sent Mr. Grady a copy of the court of appeals' decision and asked him to choose whether to abandon efforts on the case, or have Attorney Compton file a petition for review, or terminate Attorney Compton and proceed pro se or with counsel of his choosing. In his June 4, 2018 letter to Mr. Grady, Attorney Compton asked Mr. Grady to "make a decision quickly as we only have 30 days to file a Petition for Review," and to contact him with his decision. Attorney Compton informs us that Mr. Grady never responded to his June 4, 2018 letter. We note, too, that although Mr. Grady claimed in his July 16, 2018 filing that he had not received a copy of the court of appeals' decision, he included a page from that decision as an attachment to his filing.

Based on the foregoing, we cannot conclude that Mr. Grady was prejudicially deprived of adequate representation on appeal such that we should allow the late filing of a petition for review via a writ of habeas corpus. See State ex rel. Schmelzer v. Murphy, 201 Wis. 2d 246, 548 N.W.2d 45 (1996).

Accordingly,

IT IS ORDERED that Mr. Grady's July 16, 2018 filing is hereby construed as a petition for writ of habeas corpus, and that this petition is denied.

Sheila T. Reiff
Clerk of Supreme Court