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Supreme Court of Wisconsin

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April 15, 2022

To:

Hon. Kelly J. Thimm
Circuit Court Judge, Br. 1
1313 Belknap St.
Superior, WI 54880

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

No. 2018AP2005-CR State v. Barnes L.C. #2013CF118

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of defendant-appellant-petitioner, Garland Dean Barnes, and considered by this court;

IT IS ORDERED that the petition for review is granted **as to the following issue only** (designated as issue number two in the petition for review) and that pursuant to Wis. Stat. § (Rule) 809.62(6), the defendant-appellant-petitioner may not raise or argue any other issues unless otherwise ordered by the court;

2. (a) Can a defendant “open the door” to testimonial hearsay violating his confrontation rights, and which was excluded based on an “egregious” discovery violation, by challenging the quality of the police investigation?

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(b) Can the claim that a non-testifying officer witnessed the defendant commit the crime be admitted over hearsay objections under the theory that it is admissible to show the course of investigation, not for the truth of the matter asserted?;

IT IS FURTHER ORDERED that pursuant to Wis. Stat. §§ (Rules) 809.62(6) and 809.63, within 30 days after the date of this order the defendant-appellant-petitioner must file a brief in this court; that within 20 days of filing the plaintiff-respondent, State of Wisconsin, must file either a brief or a statement that no brief will be filed; and that if a brief is filed by the plaintiff-respondent, within 10 days of filing the defendant-appellant-petitioner must file either a reply brief or a statement that no reply brief will be filed; and

IT IS FURTHER ORDERED that in any brief filed in this court the parties shall not incorporate by reference any portion of their court of appeals' brief or petition for review or response; instead, any material in these documents upon which there is reliance should be restated in the brief filed in this court; and

IT IS FURTHER ORDERED that the first brief filed in this court must contain, as part of the appendix, a copy of the decision of the court of appeals in this case; and

IT IS FURTHER ORDERED that, if a party has not previously filed an electronic copy of the briefs filed on behalf of that party in the court of appeals, the party, within 30 days after the date of this order, must provide the clerk of this court with 10 copies of the brief previously filed on behalf of that party in the court of appeals; but if the party has already filed an electronic copy of such briefs, then there is no obligation to provide additional copies of those briefs to the clerk of this court; and

IT IS FURTHER ORDERED that the allowance of costs, if any, in connection with the granting of the petition will abide the decision of this court on review.

Sheila T. Reiff
Clerk of Supreme Court