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Supreme Court of Wisconsin

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June 10, 2022

To:

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Circuit Court Judge
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Juneau, WI 53039

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

No. 2020AP951-CRState v. Sir Jordan Cosby L.C.#2017CF312

Following Sir Jordan Cosby's conviction and sentencing for certain crimes, the State Public Defender's Office (SPD) appointed Attorney Steven Roy to represent him in subsequent proceedings. Attorney Roy represented Mr. Cosby on appeal. In a July 1, 2021 decision, the court of appeals affirmed Mr. Cosby's judgment of conviction. Attorney Roy then filed an untimely petition for review on behalf of Mr. Cosby. In an April 22, 2022 order, following a pro se filing from Mr. Cosby and Attorney Roy's court-ordered response, the court granted, as a form of habeas

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relief, the opportunity for Attorney Roy to either: (1) file a petition for review on behalf of Mr. Cosby within 30 days of the date of the order; or (2) if Attorney Roy deemed it appropriate, file a no-merit petition for review pursuant to Wis. Stat. § 809.32(4) within 30 days of the date of the order. On May 10, 2022, Attorney Roy filed a no-merit petition for review pursuant to Wis. Stat. § 809.32(4).

As further established in our April 22, 2022 order, Mr. Cosby had 30 days from the filing date of the no-merit petition for review to file a supplemental petition satisfying the requirements of Wis. Stat. § 809.62(2)(a), (b), (c), & (e).

Instead of filing a supplemental petition, Mr. Cosby filed, on June 2, 2022, a one-page document stating that he “just retained a lawyer named . . . Terry L. Nussberger on May 13, 2022 so I am asking the courts to order my lawyer Terry L. Nussberger to file . . . the no-merit respon[se] and accept this motion to extend, so my new lawyer Terry L. Nussberger can have time to respond.”

At this point, the court is unsure of the status of Mr. Cosby’s representation. Attorney Roy has not withdrawn as counsel for Mr. Cosby, nor has Attorney Nussberger filed a notice of appearance or notice of substitution of counsel on behalf of Mr. Cosby. And by necessity, an individual may not simultaneously have two lawyers (one SPD-appointed and the other, perhaps, privately funded, though it is unclear from Mr. Cosby’s filing), with one asserting that a petition for review would be without any arguable merit, and the other (according to Mr. Cosby) planning to assert otherwise.

To move this matter along,

IT IS ORDERED that the State Public Defender’s Office shall advise this court in writing, within 14 days of the date of this order, of: (1) the status of Mr. Cosby’s representation; and (2) its understanding of the procedural posture of this case.

Sheila T. Reiff
Clerk of Supreme Court