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Supreme Court of Wisconsin

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July 15, 2022

To:

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Circuit Court Judge
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Lynn M. Hron
Clerk of Circuit Court
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*Address list continued on Page 3.

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

No. 2020AP951-CR

State v. Sir Jordan Cosby L.C.#2017CF312

This is the fifth order this court has issued since April 2022 in an effort to move this case toward resolution.

As explained in earlier orders, 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 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

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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).

Per 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 consistent with Wis. Stat. § 809.32(4)(a), 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.”

On June 10, 2022, this court ordered the SPD’s Office to advise this court in writing of: (1) the status of Mr. Cosby’s representation; and (2) its understanding of the procedural posture of this case. The court sent Attorney Nussberger a copy of this order.

On June 15, 2022, Mr. Cosby filed a pro se document titled, “Response to Petition for Review,” in which he claims that his case merits review by this court for various reasons.

On June 20, 2022, the SPD’s Office filed a document in response to this court’s June 10, 2022 order. The SPD’s Office stated, among other things, that Mr. Cosby remains represented by Attorney Roy.

On June 24, 2022, Attorney Roy filed a motion to withdraw as appellate counsel for Mr. Cosby. Attorney Roy stated that on June 17, 2022, he received a request from Mr. Cosby to withdraw so as to allow Attorney Nussberger to represent him.

On June 30, 2022, this court held Attorney Roy’s motion to withdraw in abeyance and ordered Attorney Nussberger to advise this court in writing whether he has been retained or has reason to believe he will be retained by Mr. Cosby in this matter.

On July 11, 2022, Attorney Nussberger filed a “Notice of Appearance,” but in the court of appeals, not in this court. Accordingly,

IT IS ORDERED that, if Attorney Nussberger intends to represent Mr. Cosby in this court, he shall promptly file a notice of appearance in this court to that effect;

IT IS FURTHER ORDERED that Attorney Nussberger shall file any document he intends to submit on Mr. Cosby’s behalf by August 1, 2022. Due to the length of time this matter has been pending, the court does not intend to allow any extensions to this deadline. If Attorney Nussberger does not file anything on Mr. Cosby’s behalf by this deadline, this matter will be disposed of based

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on the materials already before the court; i.e., Attorney Roy's May 10, 2022 no-merit petition for review and Mr. Cosby's June 15, 2022 "Response to Petition for Review"; and

IT IS FURTHER ORDERED that Attorney Roy's motion to withdraw as appellate counsel shall continue to be held in abeyance.

Sheila T. Reiff
Clerk of Supreme Court

Address list continued:

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