



OFFICE OF THE CLERK

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

July 22, 2022

To:

Hon. Bruce E. Schroeder
Circuit Court Judge
Kenosha County Courthouse
912 56th Street
Kenosha, WI 53140

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
912 56th Street
Kenosha, WI 53140

Kara Lynn Janson
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707

Gregory W. Wiercioch
Frank J. Remington Center
University of Wisconsin Law School
975 Bascom Mall
Madison, WI 53706-1399

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

No. 2018AP203-W

Ezequiel Lopez-Quintero v. Michael A. Dittmann,
L.C.#2007CF535

The court of appeals issued its decision in this writ proceeding on April 1, 2022. The court of appeals denied the timely motion for reconsideration filed on behalf of the petitioner, Ezequiel Lopez-Quintero, in an order issued on April 21, 2022. In order to be timely filed, a petition for review conforming to the requirements of Wis. Stat. § 808.10 and § (Rule) 809.62 must be filed in this court pursuant to Wis. Stat. § 809.80 within 30 days of the court of appeals' adverse decision or, if a timely motion for reconsideration is filed, within 30 days after the court of appeals denies the motion for reconsideration. Wis. Stat. § 808.10; First Wisconsin National Bank of Madison v. Nicholaou, 87 Wis. 2d 360, 274 N.W.2d 704 (1979). In this case, since the 30th day following the April 21, 2022 order fell on a Saturday, the deadline for filing a petition for review in this matter was Monday, May 23, 2022. Wis. Stat. § 801.15.

On May 23, 2022, counsel for Mr. Lopez-Quintero submitted an electronic copy of a petition for review and an appendix into the appellate eFiling system. Counsel did not file a paper original of the petition on that date. On May 24, 2022, after communications with the office of the clerk of this court, counsel for the plaintiff-appellant submitted a paper original of the petition

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for review to the clerk's office. The respondent, Michael A. Dittmann, Warden of the Columbia Correctional Institution, subsequently filed a response to the petition.

Pursuant to this court's June 15, 2021 order entitled "In re Interim Court Rule Governing Electronic Filing in the Supreme Court," (Nos. 19-02A and 20-07A), and the "Wisconsin Supreme Court Electronic Filing Pilot Project: Revised Interim Rule Beginning July 1, 2021" that was adopted by the June 15, 2021 order, petitions for review (and appendices) in cases that are not part of the Supreme Court eFiling pilot project must be filed as paper originals (with the required number of copies) with the Clerk of the Supreme Court within the 30-day period required by Wis. Stat. § 808.10. This means that the paper original of a petition for review must be physically delivered to the Clerk of the Supreme Court within the 30-day period. Although an electronic copy of the petition for review must also be filed with the Clerk of the Supreme Court, Wis. Stat. § (Rule) 809.62(4)(b), for cases that are not officially designated as part of the eFiling pilot project in the Supreme Court, the physical filing of the paper original of the petition for review (not the electronic copy) is the determining factor for whether a petition for review is timely filed under Wis. Stat. § 808.10.

In this case, the paper original of a petition for review was not filed within the 30-day period prescribed by Wis. Stat. § 808.10, and the petitioner has not properly invoked this court's appellate jurisdiction. The petitioner's petition for review is untimely and must be dismissed.¹ Accordingly,

IT IS ORDERED that the petition for review is dismissed.

Sheila T. Reiff
Clerk of Supreme Court

¹ The court recognizes that counsel for the petitioner had communications with staff members of the clerk's office on May 24, 2022, regarding the necessity of filing a paper original and the required number of copies of a petition for review. Those communications do not support accepting the petition for review as timely, regardless of their content, because they occurred after the 30-day period for filing a petition for review had already expired.