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Supreme Court of Wisconsin

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November 14, 2022

To:

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

No. 2020AP755

State v. Burns, L.C. #1988CF880536

On September 8, 2022, defendant-appellant, Johnnie Lawrence Burns, Jr., pro se, filed a document with this court asserting that he first received a copy of the court of appeals' July 6, 2022 decision on August 15, 2022. Mr. Burns asserts, and the appellate record confirms, that the court of appeals July 6, 2022 decision was originally sent to him at the Waupun Correctional Institution. As indicated in Mr. Burns' document, however, the appellate record shows that he had previously notified the clerk of the court of appeals of his change of address to the New Lisbon Correctional Institution on March 14, 2022 (and again on July 22, 2022). The record also reveals that Mr. Burns' original copy of the July 6, 2022 decision was returned as undelivered by the United States Postal Service to the clerk's office on July 12, 2022, when another copy of the decision was resent, which apparently did not reach Mr. Burns until August 15, 2022, by which time the 30-day period in which to file a petition for review had expired. Accordingly;

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No. 2020AP755

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IT IS ORDERED the document filed by the defendant-appellant on September 8, 2022, shall be construed as a petition for a writ of habeas corpus. See State ex rel. Fuentes v. Wisconsin Court of Appeals, 225 Wis. 2d 446, 593 N.W.2d 48 (1999); and

IT IS FURTHER ORDERED the petition for writ of habeas corpus is granted, ex parte; and

IT IS FURTHER ORDERED that within 45 days of this order the defendant-appellant shall file with the clerk of this court a petition for review of the court of appeals' July 6, 2022 decision conforming to the requirements of Wis. Stat. §§ 809.62(2) and (4); and

IT IS FURTHER ORDERED that the clerk of the circuit court shall transmit the record of Case No. 1988CF880536 to this court within twenty days of the date of this order.

Sheila T. Reiff
Clerk of Supreme Court