

FILED  
09-01-2023  
CLERK OF WISCONSIN  
SUPREME COURT



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](http://www.wicourts.gov)

September 1, 2023

**To:**

Hon. Joseph R. Wall  
Circuit Court Judge  
Electronic Notice

Michael C. Sanders  
Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Safety Building  
Electronic Notice

Terry Lee McKinney 217307  
Fox Lake Correctional Inst.  
P.O. Box 200  
Fox Lake, WI 53933-0200

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

---

Nos. 2021AP1564-CR     State v. McKinney L.C.#s 2005CF7138 and 2017CF1453  
2021AP1568-CR

On July 17, 2023, defendant-appellant, Terry Lee McKinney, pro se, filed a motion for reconsideration of the court of appeals' June 20, 2023 decision in his consolidated appeals. The motion for reconsideration was dismissed as untimely by a court of appeals' order dated July 18, 2023. Then, on August 14, 2023, Mr. McKinney filed a petition for review of the court of appeals' decision of June 20, 2023. Because Mr. McKinney's motion for reconsideration in the court of appeals was not filed within 20 days of the original June 20, 2023 decision in that court, the deadline for filing the petition for review in the supreme court was not tolled under Wis. Stat. § 808.10(2) and expired 30 days after the date of the court of appeals' decision. Therefore, the petition was dismissed as untimely pursuant to Wis. Stats. §§ 808.10 and 809.62(1m) and First Wisconsin National Bank of Madison v. Nicholaou, 87 Wis. 2d 360, 274 N.W.2d 704 (1979), by court order dated August 14, 2023. On August 30, 2023, Mr. McKinney filed a motion for reconsideration of the dismissal of his petition for review, arguing that he did not receive the court of appeals' decision of June 20, 2023, or order of July 18, 2023, until several days after they were issued.

IT IS ORDERED that the motion for reconsideration is denied. Wisconsin Stat. § (Rule) 808.10(1) provides that a petition for review must be filed in this court "within 30 days of the date

Page 2

September 1, 2023

Nos. 2021AP1564-CR     State v. McKinney L.C.#s 2005CF7138 and 2017CF1453  
2021AP1568-CR

of the decision of the court of appeals." A petition for review must be physically received in the clerk's office within 30 days of the date of the court of appeals' decision or order that is sought to be reviewed. St. John's Home v. Continental Cas. Co., 150 Wis. 2d 37, 43, 441 N.W.2d 219 (1989). The 30-day period for filing a petition for review cannot be extended, and if a petition for review is not filed within 30 days of the date of the court of appeals' decision, this court lacks subject matter jurisdiction over the case and the petition must be dismissed. See First Wis. Nat'l Bank of Madison v. Nicholaou, 87 Wis. 2d 360, 274 N.W.2d 704 (1979). The provisions of § 801.15(5), which provide that three days may be added to the prescribed filing period in certain instances, do not apply to the filing of petitions for review. "Section 808.10 does not provide a time limit which runs from the date of service or receipt of the court of appeals' opinion. Rather, the time limit runs from the date of the opinion." Id. at 365.

---

Samuel A. Christensen  
Clerk of Supreme Court