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CLERK OF WISCONSIN
SUPREME COURT

March 1, 2024

To:

Hon. John P. Anderson
Circuit Court Judge
Electronic Notice

Sandra Paitl
Clerk of Circuit Court
Ashland County Courthouse
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

David V. Meany
Electronic Notice

Lonnie D. Story
Electronic Notice

Brian M. Nelis #314310
Stanley Correctional Institute
100 Corrections Dr.
Stanley WI, 54768

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

No. 2021AP186-CRNM State v. Nelis, L.C.#2018CF185

On November 30, 2022, defendant-appellant-petitioner, Brian M. Nelis, pro se, filed what this court construed to be a timely but nonconforming petition to review the court of appeals' October 25, 22 decision. The court ordered Mr. Nelis to file a statement in support of the petition, conforming to the requirements of Wis. Stat. §§ 809.62(2) and (4), with the clerk of this court by January 3, 2023, or the petition would be summarily dismissed. Since that time, the court granted four extension requests, the last of which was filed by newly retained counsel, Attorney Lonnie D. Story. November 6, 2023, was set as the deadline for filing the statement in support. On November 7, 2023, defendant-appellant-petitioner, through counsel, filed a statement in support of the petition with a supporting appendix. The court subsequently granted two motions for leave to amend the statement in support. On February 14, 2024, the second amended statement in support was received with a supporting appendix. On February 15, 2024, plaintiff-respondent, State of Wisconsin, filed a letter response to the second amended statement in support.

On February 26, 2024, counsel for defendant-appellant-petitioner, filed a motion to withdraw as counsel. In the motion, counsel represents that Mr. Nelis is not satisfied with counsel's arguments in the second amended statement in support, and that Mr. Nelis wishes to proceed pro

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se. Counsel further states that, due to Mr. Nelis' continued criticisms, counsel "can no longer effectively represent Mr. Nelis."

We will afford Mr. Nelis an opportunity to consider his options, and to file a response in this court clarifying whether he wants to continue with Attorney Story and to stand on the second amended statement in support of the petition for review that Attorney Story has filed, or to discharge Attorney Story and proceed pro se. Mr. Nelis is cautioned that as a pro se litigant, he will be solely responsible for complying with the rules of appellate procedure and timely filing all required documents. His obligations will include filing a third amended statement in support of the petition satisfying the requirements of Wis. Stat. § 809.62 (2) (a), (b), (c), and (e) by April 12, 2024. The amended statement must not exceed 35 pages if a monospaced font or handwriting is used, or 8,000 words if a proportional serif font is used. The amended statement must be coherent and must set forth arguments supported by references to the record on appeal and legal authority. Failure to timely file a third amended statement in support of the petition in compliance with these requirements may result in dismissal of the petition for review. Mr. Nelis is further cautioned that if he discharges Attorney Story and subsequently decides that pro se representation was ill advised, there is no guarantee that the court will allow time for new counsel to be retained. The foregoing is not intended to be an all-inclusive discussion of the difficulties and disadvantages of self-representation.

Based on the foregoing,

IT IS ORDERED that the motion to withdraw is held in abeyance pending further order of this court;

IT IS FURTHER ORDERED that by April 1, 2024, Mr. Nelis shall inform this court as to whether he wishes to discharge Attorney Story and proceed pro se. If Mr. Nelis does not respond and clearly express his desire to discharge Attorney Story, or if his response leaves a doubt as to his understanding of the consequences of doing so, we will deny the motion to withdraw, Attorney Story shall continue as appellate counsel for Mr. Nelis, and the case will proceed on the February 14, 2024 second amended statement in support of petition for review filed by Attorney Story and the February 15, 2024 letter response to that statement filed by the State. If Mr. Nelis indicates that he wishes to discharge Attorney Story and proceed pro se, Mr. Nelis must file a third amended statement in support of the petition, conforming to the requirements stated above, by April 12, 2024.

Samuel A. Christensen
Clerk of Supreme Court