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November 7, 2017

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Steven Alan Magritz
[REDACTED]
[REDACTED]

You are hereby notified that the Court has entered the following opinion and order:

2017AP1531-W

State of Wisconsin ex rel. Steven Alan Magritz v. Jon Litscher
(L.C. # 2011CF236)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

Our June 6, 2017 order in *State ex rel. Magritz v. Champagne*, No. 2017AP189-W,
denied Steven Magritz's petition for a writ of habeas corpus seeking relief from his February

2016 Ozaukee County conviction for criminal slander of title after a jury trial. Magritz has been released to supervision.¹ Our June 6 order stated:

In addition to denying the [habeas] petition because it is oversized, we conclude that the relief Magritz seeks cannot be sought in this court. A party cannot have habeas relief if the party did not pursue an alternative remedy. *State ex rel. Haas v. McReynolds*, 2002 WI 43, ¶¶14-15, 252 Wis. 2d 133, 643 N.W.2d 771. Magritz did not timely pursue his Wis. STAT. RULE 809.30 postconviction rights, which was his chief, alternative remedy.² Magritz has not shown exceptional circumstances justifying a departure from this rule. *Id.*, ¶19. Magritz may still seek Wis. STAT. § 974.06 relief from his conviction to the extent he has constitutional and/or jurisdictional issues to raise. *State ex rel. Santana v. Endicott*, 2006 WI App 13, ¶8, 288 Wis. 2d 707, 709 N.W.2d 515; see *State v. Theoharopoulos*, 72 Wis. 2d 327, 329, 240 N.W.2d 635 (1976).

On September 18, 2017, Magritz filed another habeas petition, which was docketed in No. 2017AP1531-W. We now address this habeas petition dated September 14, 2017. The petition is not oversized and has been verified as required by our October 20 order.

The pending habeas petition seeks relief from the criminal conviction. Magritz asks this court to void his conviction due to the errors he alleges.³ As we stated in our June 6 order:

¹ We assume that Magritz remains on supervision. In that status, he remains in “custody” for purposes of the pending habeas petition. *State ex rel. Singh v. Kemper*, 2016 WI 67, ¶¶69-71, 371 Wis. 2d 127, 883 N.W.2d 86.

² The circuit court docket entries reveal the following. Magritz was convicted in February 2016, and he filed a timely Wis. STAT. RULE 809.30(2) (2015-16) notice of intent to pursue postconviction relief. In April 2016, the State Public Defender denied Magritz’s request for counsel. Thereafter, Magritz took no steps to act upon or otherwise preserve (via an extension request) his RULE 809.30 direct appeal rights.

³ Magritz alleges, *inter alia*, he was prosecuted as a result of a personal vendetta or conspiracy among the circuit court, the District Attorney, and corporation counsel to deprive him of his liberty, the circuit court lacked subject matter and personal jurisdiction, the judgment of conviction is void, he was not the defendant in his criminal case, trial counsel was ineffective, and there were many other defects in the criminal proceeding.

A party cannot have habeas relief if the party did not pursue an alternative remedy. *State ex rel. Haas v. McReynolds*, 2002 WI 43, ¶¶14-15, 252 Wis. 2d 133, 643 N.W.2d 771. Magritz did not timely pursue his Wis. STAT. RULE 809.30 postconviction rights, which was his chief, alternative remedy. Magritz has not shown exceptional circumstances justifying a departure from this rule. *Id.*, ¶19. Magritz may still seek Wis. STAT. § 974.06 relief from his conviction to the extent he has constitutional and/or jurisdictional issues to raise. *State ex rel. Santana v. Endicott*, 2006 WI App 13, ¶8, 288 Wis. 2d 707, 709 N.W.2d 515; see *State v. Theoharopoulos*, 72 Wis. 2d 327, 329, 240 N.W.2d 635 (1976).

The foregoing principles apply to the pending habeas petition, which is denied.

Upon the foregoing reasons,

IT IS ORDERED that the petition for a writ of habeas corpus is denied *ex parte*. Wis. STAT. RULE 809.51(2) (2015-16).

Diane M. Fremgen
Clerk of Court of Appeals