



IN THE
Indiana Supreme Court

Supreme Court Case No. 21S-CQ-545

Kevin Isom,
Petitioner,

–v–

Ron Neal,
Respondent.

Decided: January 28, 2022

Certified Questions from the
United States District Court, Northern District of Indiana
Case No. 2:21-CV-231-HAB

The Honorable Holly A. Brady, Judge

Per Curiam Opinion

Chief Justice Rush and Justices David, Massa, Slaughter, and Goff concur.

Per curiam.

Kevin Isom has been sentenced to death for the murders of his wife and his two stepchildren, his convictions and sentences have been affirmed on direct appeal and post-conviction review in state court, and he has now petitioned for a writ of habeas corpus in the United States District Court, Northern District of Indiana. Contemporaneously with his petition, Isom filed a “Motion for Statutory and/or Equitable Tolling,” which raises questions about the legal effect of this Court’s unpublished January 13, 2017 order directing the trial court to file Isom’s state post-conviction petition despite its defects. The District Court has issued an “Opinion and Order” certifying to this Court pursuant to Indiana Appellate Rule 64 the following two questions in connection with its consideration of that motion:

- (1) Is a petition for post-conviction relief, tendered to a trial court without the verification required by Post-Conviction Rule 1, Sections 2 and 3, properly filed?
- (2) If not, does a later order of the Indiana Supreme Court, which neither affirms nor reverses a trial court order dismissing an unverified petition but orders the petition filed by the trial court as of the date of the Supreme Court’s order, render the unverified petition properly filed as of the date of its initial submission?

In her thoughtful opinion, Judge Brady anticipates that the answers to both of these questions are “no” but concludes the answers, which are governed by state law, should come from this Court. We agree with Judge Brady in all respects.

Accordingly, the certified questions are hereby ACCEPTED, and we answer both questions “no.”¹ The unverified post-conviction petition Isom

¹ When accepting a certified question, we often set a schedule for briefing on the questions raised. But here, the parties briefed—and orally argued—related issues as part of Isom’s state post-conviction appeal. In light of those extensive arguments, we find further briefing on these certified questions unnecessary.

tendered to the Lake Superior Court in January 2016 was not “properly filed” as of the date of its initial submission, nor did our subsequent order issued in January 2017 render Isom’s post-conviction petition “properly filed” as of the date of its initial submission.

Rush, C.J., and David, Massa, Slaughter, and Goff, JJ., concur.

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