

CONNECTICUT APPELLATE COURT

Thompson v. Zagaja

AC 48849 (Conn. App. June 16, 2026) · No. AC 48849 · Decided June 16, 2026

SUMMARY

The Connecticut Appellate Court dismissed Earl Thompson’s appeal from the trial court’s judgment granting summary judgment against his petition for a new trial. The court held that, under General Statutes § 54-95 (a) and Santiago v. State, the appeal could not be entertained because Thompson had not obtained certification to appeal.

CASE DETAILS

COURT	Connecticut Appellate Court
WRITING FOR THE COURT	Per Curiam; Alvord, J.; Moll, J.; Wilson, J.
JURISDICTION	Connecticut Appellate Court
DECIDED	June 16, 2026
DOCKET	AC 48849
DISPOSITION	dismissed
PROCEDURAL POSTURE	The petitioner appealed from the Superior Court's judgment granting the respondent's motion for summary judgment on statute-of-limitations grounds in a petition for a new trial.
STANDARD OF REVIEW	The appellate court stated that an appellate court reviews a trial court's denial of an untimely petition for certification under § 54-95 (a) for abuse of discretion, but the issue before it was the petitioner's failure to obtain certification before filing the appeal.
PRECEDENTIAL VALUE	Published Connecticut Appellate Court opinion
PARTIES	Earl Thompson v. David Zagaja

TOPICS

- appellate procedure
- post-conviction relief
- summary judgment
- statute of limitations
- criminal procedure

PRACTICE AREAS

- Appellate procedure
- Post-conviction relief
- Criminal procedure
- Civil procedure

QUESTIONS PRESENTED

1. Whether the Connecticut Appellate Court should entertain an appeal from a judgment functionally equivalent to a judgment denying a petition for a new trial when the petitioner failed to obtain the certification required by General Statutes § 54-95 (a).
2. Whether the petitioner's challenge to the allegedly untimely filing of the respondent's summary-judgment motion could be considered without the required certification.

HOLDINGS

1. An appellate court should decline to entertain an appeal challenging the denial of a petition for a new trial until the petitioner has first sought certification to appeal under § 54-95 (a). Because Thompson failed to obtain certification before filing his appeal, the appeal was dismissed.

KEY QUOTATIONS

“Because the petitioner failed to obtain certification to appeal from the trial court, the appeal is dismissed.”

“should decline to entertain an appeal challenging the denial of a petition for a new trial until the petitioner first has sought certification to appeal pursuant to § 54-95 (a).” (534)

FACTUAL BACKGROUND

Thompson had been convicted of conspiracy to commit robbery in the first degree, robbery in the first degree, and kidnapping in the first degree as an accessory. He later filed a petition for a new trial, and the Superior Court granted the respondent's motion for summary judgment on statute-of-limitations grounds. Thompson appealed, but he had not obtained certification to appeal from the trial court or an authorized appellate judge.

PROCEDURAL HISTORY

Following his convictions for conspiracy to commit robbery in the first degree, robbery in the first degree, and kidnapping in the first degree as an accessory, Thompson filed a petition for a new trial in the Superior Court for the judicial district of Hartford. Judge Trial Referee Carl J. Schuman granted Zagaja's motion for summary judgment and rendered judgment for the respondent. Thompson appealed without first obtaining certification to appeal under General Statutes § 54-95 (a), and the Connecticut Appellate Court dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- Santiago v. State, 261 Conn. 533, 804 A.2d 801 (2002)

OPINION

PER CURIAM.

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***** Thompson v. Zagaja EARL THOMPSON v. DAVID ZAGAJA (AC 48849) Alvord, Moll and Wilson, Js.

Syllabus The petitioner appealed from the trial court’s judgment granting the respondent’s motion for summary judgment on statute of limitations grounds as to his petition for a new trial. The petitioner claimed, inter alia, that the court abused its discretion in permitting the respondent to file a motion for summary judgment in an untimely manner. Held: This court dismissed the appeal in accordance with our Supreme Court’s directive in Santiago v. State (261 Conn.

533) that an appellate court should decline to entertain an appeal challenging the denial of a petition for a new trial until the petitioner has first sought certification to appeal pursuant to statute (§ 54-95 (a)), as the petitioner failed to obtain such certification. Argued May 19—officially released June 16, 2026 Procedural History Petition for a new trial following the petitioner’s conviction of the crimes of conspiracy to commit robbery in the first degree, robbery in the first degree, and kidnapping in the first degree as an accessory, brought to the Superior Court in the judicial district of Hartford, where the court, Hon. Carl J. Schuman, judge trial referee, granted the respondent’s motion for summary judgment and rendered judgment thereon, from which the petitioner appealed to this court.

Appeal dismissed. Earl Thompson, self-represented, the appellant (petitioner). Connor Reed, special deputy assistant state’s attorney, for the appellee (respondent). Opinion PER CURIAM. The self-represented petitioner, Earl Thompson, appeals from the judgment of the trial court

granting, on statute of limitations grounds, the motion for summary judgment filed by the respondent, David Thompson v. Zagaja Zagaja,¹ as to the petitioner's petition for a new trial.

Because the petitioner failed to obtain certification to appeal from the trial court, the appeal is dismissed. General Statutes § 54-95 (a) provides in relevant part that "[n]o appeal may be taken from a judgment denying a petition for a new trial unless, within ten days after the judgment is rendered, the judge who heard the case or a judge of the Supreme Court or the Appellate Court, as the case may be, certifies that a question is involved in the decision which ought to be reviewed by the Supreme Court or by the Appellate Court...." In *Santiago v. State*, 261 Conn.

533, 804 A.2d 801 (2002), our Supreme Court held that, although the failure to seek certification does not deprive an appellate court of subject matter jurisdiction over the appeal, the certification requirement is nonetheless "mandatory"; *id.*, 540; such that an appellate court "should decline to entertain an appeal challenging the denial of a petition for a new trial until the petitioner first has sought certification to appeal pursuant to § 54-95 (a)." *Id.*, 534.

In the present case, the petitioner did not obtain certification to appeal pursuant to § 54-95 (a) prior to filing this appeal.² As a result, in accordance with our Supreme Court's directive in *Santiago*, we dismiss this appeal.

We note, however, that the petitioner may file a late petition for certification and that "the decision of whether to entertain an untimely request for certification to appeal under § 54-95 (a) [would be] within the sound discretion of the [trial] court." *Id.*, 544–45 n.17; see also *id.*, 545 n.17 (on appeal, appellate court employs abuse of discretion standard in reviewing trial court's denial). The respondent was the assistant state's attorney who prosecuted the criminal case against the petitioner and now is a judge of the Superior Court.

² In this context, we consider the trial court's judgment granting the respondent's motion for summary judgment to be the functional equivalent of a judgment denying a petition for a new trial for purposes of § 54-95 (a). *Thompson v. Zagaja* of petition for certification to appeal under § 54-95 (a) on timeliness grounds).

The appeal is dismissed.