

No. 25A1010

IN THE SUPREME COURT
OF THE UNITED STATES

State of Minnesota,

Applicant,

v.

Seneca Warrior Steeprock,

Respondent.

OPPOSITION TO APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE MINNESOTA SUPREME
COURT

OFFICE OF THE MINNESOTA
APPELLATE PUBLIC DEFENDER

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To: The Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit:

The application of the State of Minnesota for an extension of time to file a petition for a writ of certiorari to the Minnesota Supreme Court should be denied because the time to file a petition has lapsed and/or because the application is meritless.

1. The time to file a petition for a writ of certiorari has lapsed.

A petition for a writ of certiorari must be filed within 90 days of the decision at issue. Rule 13.1. “The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate (or its equivalent under local practice).” Rule 13.3.

The thing “sought to be reviewed” here is the decision of the Minnesota Supreme Court issued December 3, 2025. *State v. Steeprock*, 28 N.W.3d 417 (Minn. 2025). Accordingly, any petition for writ of certiorari was due March 3, 2026, 90 days after the state supreme court released its decision. This would certainly be the result if a party was seeking review of a decision of a federal court of appeals. *See Clay v. United States*, 537 U.S. 522, 525 (2003) (holding that petition was due 90 days after issuance of opinion). The application is, and any subsequent petition for writ of certiorari would be, untimely because the time to file a petition has lapsed.

Applicant claims that a petition for writ of certiorari in this case is not due until March 18, 2026, which is 90 days after the Minnesota Clerk of Appellate Courts

issued what in Minnesota is called the “judgment.” (Mot. at 1). Applicant is mistaken.

The time to file a petition for a writ of certiorari does not run “from the issuance date of the mandate (or its equivalent under local practice).” Rule 13.2; *accord Clay*, 537 U.S. at 525. The Minnesota Clerk’s Office’s “judgment” is “the equivalent under local practice” of the “mandate” issued by a federal court of appeals. The federal “mandate...consists of a certified copy of the judgment, a copy of the court’s opinion, if any, and any direction about costs.” Fed. R. App. P. 41. As this Court can see from the attached “judgment” issued in this case, Minnesota’s “judgment” is substantially similar to the federal mandate. *See also* Minn. R. Civ. App. P. 136.02; 136.03.¹

Applicant’s interpretation of this Court’s rules would result in different treatment for similarly situated cases. A petition for a writ of certiorari is due 90 days after an order denying discretionary review and 90 days after an order denying a petition for rehearing, not 90 days from the judgments, mandates, or similar paperwork that follow both types of cases. Rule 13.1; 13.3. Applicant’s interpretation of Rule 13 would treat petitions in cases like this materially better than petitions the similarly postured cases discussed above.

“The Clerk will not file any petition for a writ of certiorari that is jurisdictionally out of time.” Rule 13.2. The application should be denied because any petition for a writ of certiorari would be jurisdictionally out of time.

¹ In Minnesota, the Rules of Civil Appellate Procedure govern in criminal appeals absent a contrary Rule of Criminal Procedure.

2. The application is meritless.

In the alternative, the application should be denied because it is meritless. “An application to extend the time to file a petition for a writ of certiorari is not favored.” Rule 13.5. To explain its failure to perfect a timely petition for writ of certiorari, applicant posits nothing more than a detail-free recitation of counsel’s ordinary job duties and counsel’s three work-weeks out of the office. This is not the kind of good cause that should convince the Nation’s highest Court to relax its standards.

The application should be denied.

Dated: March 12, 2026

Respectfully submitted,

OFFICE OF THE MINNESOTA
APPELLATE PUBLIC DEFENDER

/s/ Benjamin J. Butler

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