

No. 25A1010

IN THE
SUPREME COURT OF THE UNITED STATES

MINNESOTA,

Applicant,

v.

SENECA WARRIOR STEEPROCK,

Respondent.

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

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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 Deadline to File a Petition for Writ of Certiorari Has Not Lapsed.

There is no merit to respondent’s argument that the time to file a petition for writ of certiorari has lapsed. In calculating the date upon which the petition is due, respondent makes a fundamental error by counting the time from the issuance of the opinion, rather than the entry of the judgment by the Minnesota Supreme Court. In accordance with 28 U.S.C. § 1257(a), this Court may review “[f]inal judgments or decrees rendered by the highest court of a State[.]” (emphasis added). This Court’s Rules similarly provide that “a petition for a writ of certiorari to review a *judgment* . . . entered by a state court of last resort . . . is timely when it is filed with the Clerk of this Court within 90 days *after entry of the judgment*.” S. Ct. R. 13(1) (emphasis added).

On December 18, 2025, the Minnesota Supreme Court entered its “Judgment” in this case. R.App-1.¹ That Judgement states: “Pursuant to a decision of the Minnesota Supreme Court . . . it is determined and adjudged that the decision of the St. Louis County District Court . . . is reversed and remanded. *Judgment is entered accordingly*.” R.App-1 (emphasis added). The deadline for filing a petition for writ of certiorari in this matter, therefore, is March 18, 2026. In accordance with S. Ct. R. 13.5, applicant timely filed an application for an extension of time to file that petition.²

Respondent erroneously characterizes the Minnesota Supreme Court’s opinion, issued on December 3, 2025, as the final judgment. *See* ROA at 1. Based on this inaccurate assumption, respondent argues that the December 18, 2025 “Judgment” is really the equivalent of a “mandate” issued by the federal court of appeals. ROA at 2. But the federal rules of appellate procedure upon which respondent

¹ “R.App-” refers to respondent’s appendix; “ROA” refers to respondent’s opposition to application.

² Petitioner’s application for an extension of time was filed on March 6, 2026.

relies explicitly distinguish between a “judgment” and a “mandate”; what the Minnesota Supreme Court entered on December 18 falls squarely under the definition of a judgment. *Compare* Fed. R. App. P. 36 *with* Fed. R. App. P. 41.

In Minnesota, “entry of judgment” is achieved through the filing of a specific document denominated as the “judgment” not less than 30 days after the filing of the decision or order. Minn. R. App. P. 136.02. From a practical perspective, this allows for the filing of a petition for rehearing. *See id.* at Comment. In this respect, Minnesota appellate procedure is different from that of the federal court system. The Federal Rules of Appellate Procedure expressly permit the appellate clerk to enter judgment upon receipt of a final decision from the issuing court. *See* FRAP 36(a)-(a)(1). In addition, the fact that judgment can be entered “without an opinion” (Fed. R. App. P. 36(a)(2)) further distinguishes an opinion (or decision) from a judgment.

Further demonstrating the differences between these two systems, the Federal Rules of Appellate Procedure (“FRAP”) provide that the time to seek rehearing of a federal appellate decision is tied to the entry of judgment, *not the issuance of a decision*. *See* FRAP 40 (“any petition for panel rehearing or rehearing en banc must be filed within 14 days after judgment is entered”). Likewise, FRAP 41 provides for the clerk to issue a separate document, denominated a “mandate,” within “7 days after the time to file a petition for rehearing expires”—*i.e.*, within 21 days after the *judgment* is entered.

In contrast to the federal rules, the Minnesota Rules of Appellate Procedure provide that the time for seeking rehearing is tied to the filing of the appellate opinion—not the judgment. Minn. R. App. P. 140.01 (“[a] petition for rehearing in the Supreme Court may be filed within 14 days after the filing of the decision or order[.]”). Minnesota has no counterpart to FRAP 41. Instead, like many other states, Minnesota does not require a separate “mandate” after judgment has been entered. The “judgment” referred to in this Court’s Rule 13, therefore, is the filing, prepared and signed by the Minnesota Clerk of

Appellate Courts, that was entered on December 18. It is not the underlying decision. *Puget Sound Power & Light Co. v. King County*, 264 U.S. 22, 25 (1924) (“It is apparent that, however final the decision may be, it is not the judgment.”).³

Where a petition for certiorari seeks review of a state court decision, *state law* determines what constitutes “entry of judgment” for purposes of triggering the relevant 90-day deadline. *See, e.g., Marquette Nat. Bank of Minneapolis v. First of Omaha Serv. Corp.*, 439 U.S. 299, 307 (1978) (“We reject respondent’s argument that the petitions are untimely . . . Petitioners filed a timely petition for rehearing, which, under Minnesota law, defers the entry of judgment until after the disposition of the petition”); *Puget Sound*, 264 U.S. at 24-25 (“Under the law of Washington . . . a decision of the department of the Supreme Court does not become final until 30 days after it is filed, during which a petition for rehearing may be filed . . . we are in no doubt that that which the Washington statute calls the judgment is the judgment”). The Minnesota rule authorizing petitions for rehearing shows that an opinion in Minnesota is not final until the judgment is issued, which starts the 90-day deadline for a certiorari petition.

The judgment of the Minnesota Supreme Court was neither filed nor entered until December 18, 2025; accordingly, the petition for writ of certiorari is due March 18, 2026. Applicant’s request to extend the time to file the petition for a writ of certiorari is, therefore, properly before this Court.

³ Furthermore, this Court’s rules require that a petition for a writ of certiorari contain “the judgment sought to be reviewed if the date of its entry is different from the date of the opinion.” S. Ct. R. 14(1)(e)(i). This shows that “judgment” and “opinion” are not synonymous, contrary to respondent’s argument.

CONCLUSION

For the reasons set forth in its March 6, 2026 application, applicant respectfully requests that the time to file a petition for a writ of certiorari in this matter be extended by 29 days, up to and including April 16, 2026.

Dated: March 18, 2026

Respectfully submitted,

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