

**STATE OF MINNESOTA**  
**IN COURT OF APPEALS**



---

State of Minnesota,

Respondent,

vs.

Matthew David Guertin,

Petitioner.

---

**O R D E R**

#A24-0780

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:**

1. On May 10, 2024, petitioner filed a petition for discretionary review of the Hennepin County District Court's April 12, 2024 order denying his motion for self-representation. The state submitted a response to the petition on May 17, 2024.

2. Also on May 17, 2024, this court issued an order directing petitioner to pay the \$550 filing fee associated with the petition or to file an application in district court to proceed in forma pauperis (IFP) in this court by May 31, 2024.

3. On May 28, 2024, petitioner filed a motion in this court for a waiver of the filing fee pursuant to Minn. R. Civ. App. P. 103.01, subd. 3(c). On this same date, petitioner also filed four separate motions requesting that this court take judicial notice of various facts pursuant to Minn. R. Evid. 201.

4. On May 29, 2024, petitioner paid the \$550 filing fee associated with his petition.

5. On May 30, 2024, petitioner filed a motion for late acceptance of a reply to the state's response to his petition for discretionary review.

6. Minn. R. Civ. App. P. 103.01, subd. 3(c), provides that a filing fee is not required if "the appellant is a party to a proceeding pursuant to Minnesota Statutes, chapter 253B or 253D." Chapters 253B and 253D of the Minnesota Statutes pertain to civil-commitment proceedings. Because the nature of the present action is a petition for discretionary review pursuant to rule Minn R. Crim. P. 28.02, subd. 3, of an order issued in a criminal proceeding, the exemption from the filing-fee requirement provided by Minn. R. Civ. App. P. 103.01, subd. 3(c), does not apply.

7. Because petitioner has now paid the \$550 filing fee associated with his petition, this deficiency is deemed satisfied.

8. Minn. R. Evid. 201 governs judicial notice exclusively in civil cases. As the committee comment to the rule notes, "The status of the law governing the use of judicial notice in criminal cases is unsettled and not appropriate for codification," and "courts should rely on applicable case law to determine the appropriate use of judicial notice in criminal cases." Minn. R. Evid. 201 1989 comm. cmt. Accordingly, a decision on petitioner's motions for judicial notice will be deferred to the panel of this court assigned to address the merits of the petition.

9. Minn. R. Civ. App. P. 105.02 provides that a petitioner for discretionary review may submit a reply within three days after service of any response to the petition. Petitioner's reply was therefore due to be filed and served on or before May 22, 2024. Because petitioner is self-represented in this matter, and accepting a late reply will not

delay the processing of the petitioner, there is good cause to grant petitioner's motion to accept his submitted reply for filing.

**IT IS HEREBY ORDERED:**

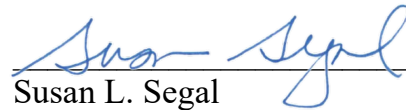
1. Petitioner's motion for a waiver of the required filing fee pursuant to Minn. R. Civ. App. P. 103.01, subd. 3(c), is denied.

2. Petitioner's motions for judicial notice are deferred to the panel of this court that will dispose of the petition on its merits.

3. Petitioner's motion to file a late reply to the state's response is granted, and the submitted reply memorandum is ordered filed.

**Dated:** May 31, 2024

**BY THE COURT**

  
\_\_\_\_\_  
Susan L. Segal  
Chief Judge