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5/17/2024 10:28 AM

A24-0780

STATE OF MINNESOTA

IN COURT OF APPEALS

State of Minnesota,

Respondent,

v.

Matthew David Guertin,

Petitioner.

STATE'S OPPOSITION TO DISCRETIONARY REVIEW

Dist. Ct. File No. 27-CR-23-1886

TO: THE CLERK OF MINNESOTA'S APPELLATE COURTS; BRUCE RIVERS, ATTORNEY FOR PETITIONER IN DISTRICT COURT; AND MATTHEW DAVID GUERTIN, PRO SE PETITIONER.

INTRODUCTION

Petitioner Matthew David Guertin asks this Court to take discretionary review of the district court's April 12, 2024 order that denied his motion to represent himself pro se. This Court should deny the petition for discretionary review.

FACTUAL AND PROCEDURAL HISTORY

In January 2023, Petitioner was charged with felony reckless discharge of a firearm and three counts of felony possession of a firearm with no serial number. *See* Doc. Index ("Index") #1. At the first appearance on January 25, 2023, the district court, the Honorable Lionel Norris presiding, found probable cause and ordered a Minn. R. Crim. P. 20.01 evaluation to be conducted on Petitioner. Index

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#4. On February 20, 2023, Bruce Rivers, Esq. filed a certificate of representation and began representing Petitioner in this matter. Index #9.

On July 13, 2023, the district court, the Honorable George Borer presiding, found Petitioner incompetent to proceed. Index #19. On January 17, 2024, the district court, the Honorable Danielle Mercurio presiding, again found Petitioner incompetent to proceed. Index #25.

On April 3, 2024, Petitioner filed a motion to represent himself pro se. Index #27. On April 12, 2024, the district court, the Honorable Julia Dayton Klein presiding, issued a two-page order denying Petitioner's motion. Index #33.

On May 10, 2024, Petitioner filed a petition for discretionary review that seeks this Court's review of that April 12, 2024 order.

REASONS TO DENY DISCRETIONARY REVIEW

This Court may afford discretionary review of an order "in the interests of justice[.]" Minn. R. App. P. 105.01. This Court considers multiple factors when determining whether to grant discretionary review, such as whether the lower court's ruling is questionable or involves an unsettled area of the law, and the importance of the legal issue presented. *See Gordon v. Microsoft Corp.*, 645 N.W.2d 393, 399, 401-02 (Minn. 2002). Often, discretionary review is extended when the issue raised in a petition is an important legal question that has broad applicability. *See id.* at 399, 399 n.7. A petitioner also *must* demonstrate that a "compelling reason" exists for granting discretionary review. *State v. Plevell*, 889 N.W.2d 584, 587 (Minn. App. 2017).

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Here, Petitioner challenges a district-court order that denied his request to waive his right to counsel and represent himself pro se because Petitioner is currently incompetent to proceed under Minn. R. Crim. P. 20.01 *See* Index #33. It is well settled – based on both the plain language of rule 20.01 and a long line of caselaw – that a defendant cannot waive his or her right to counsel and begin representing him or herself pro se while that defendant is found to be incompetent. *See* Minn. R. Crim. P. 20.01, subd. 1(a)-(f); *State v. Thompson*, No. 20-1232, 2021 WL 3136728, *2 (Minn. July 26, 2021) (stating "a person cannot waive the constitutional right to representation if incompetent to make that decision"), *rev. denied* (Minn. Oct. 27, 2021). The district court's order properly cited this Court's relatively recent decision in *Thompson* for this principle; *Thompson*, in turn, cited to and relied on United States Supreme Court, Minnesota Supreme Court, and this Court's past precedent, all of which establish the same principle. *See id.* at *2-3 (citing *Godinez v. Moran*, 509 U.S. 389, 391, 396 (1993); *State v. Camacho*, 561 N.W.2d 160, 170-74 (Minn. 1997); *State v. Thornblad*, 513 N.W.2d 260, 262-63 (Minn. App. 1994)). The district court's succinct order is not questionable, nor does it raise an important legal question because a clear answer already exists in current, controlling law. Given this legal landscape, Petitioner has not demonstrated a "compelling reason" that this Court should grant discretionary review in this case. *Plevell*, 889 N.W.2d at 587.

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CONCLUSION

The State respectfully asks that this Court deny the petition for discretionary review.

DATED: May 17, 2024

Respectfully submitted,

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CERTIFICATION AS TO LENGTH

I hereby certify that this response conforms to the requirements of Minn. R. Civ. App. P. 105.02 for a response produced with a proportional font. The length of this response is 619 words. This brief was prepared using Microsoft Word 2016, Times New Roman font face size 13.

DATED: May 17, 2024

Respectfully submitted,

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