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State of Minnesota
5/30/2024 11:33 AM

**A24-0780**
**STATE OF MINNESOTA**
**IN COURT OF APPEALS**

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| **State of Minnesota,** | District Court Case: 27-CR-23-1886 |
| **Respondent,** | Court Order Date: April 12, 2024 |
| **vs.** | **PETITIONER'S MOTION FOR LEAVE TO FILE LATE RESPONSE TO RESPONDENT'S OBJECTION** |
| **Matthew David Guertin,** | |
| **Petitioner.** | |

TO: THE COURT OF APPEALS OF THE STATE OF MINNESOTA

## INTRODUCTION

Petitioner, Matthew David Guertin, proceeding pro se, respectfully moves this Court for leave to file a late response to the State's objection to Petitioner's discretionary review petition. The State's objection was filed on May 17, 2024, and the Petitioner acknowledges the typical three-day response period prescribed by Rule 105.02 of the Minnesota Rules of Civil Appellate Procedure.

## REASONS FOR LATE FILING

**Pro Se Status and Complexity of the Case:**

Petitioner is proceeding without legal representation in a complex and demanding case. The intricacies involved necessitated thorough research and preparation to ensure a

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comprehensive and substantiated response. As a pro se litigant, Petitioner does not have the resources or support available to a represented party, significantly impacting the ability to meet tight deadlines.

**Strategic Decision for Thorough Response:**

Upon receiving the State's objection, Petitioner made a calculated decision to prioritize the quality and thoroughness of the response over strict adherence to the three-day deadline. Given the last-minute nature of the original petition filing, Petitioner aimed to avoid submitting a similarly rushed and potentially inadequate response. This strategic choice was intended to provide the Court with a well-researched and cogent argument, ensuring a fair and just review process.

**Organizing Comprehensive Case Facts:**

The preparation involved organizing extensive case facts, as detailed in Petitioner's Motions for Judicial Notice submitted on May 28, 2024. This included the review and incorporation of numerous legal arguments and factual details essential to adequately addressing the State's objections.

**Ensuring Compliance with Financial Obligations:**

Petitioner also needed time to secure the necessary funds for the filing fee, successfully resolved on May 29, 2024. This action addressed the final remaining deficiency in the Petition for Discretionary Review and was critical to moving forward with the case.

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## LEGAL BASIS FOR GRANTING LEAVE

Rule 126.02 of the Minnesota Rules of Civil Appellate Procedure provides this Court the authority to extend filing deadlines in the interest of justice. Given the unique challenges faced by the Petitioner as a pro se litigant and the importance of ensuring a just and thorough review, Petitioner submits that there is good cause for the late filing of this response.

## CONCLUSION

For the reasons stated above, Petitioner respectfully requests that this Court grant leave to file a late response to the State's objection. This request is made in the interest of justice, ensuring that Petitioner's arguments are fully and properly presented to facilitate a fair adjudication of the issues at hand.

## EXHIBITS

**Exhibit A:** Completed Response to State's Objection

**Exhibit B:** Certificate of Document Length.

Dated: May 30, 2024

By: /s/ Matthew D Guertin

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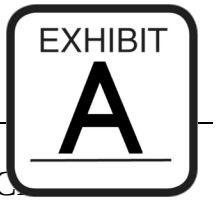


**State of Minnesota,**

**Respondent,**

**vs.**

**Matthew David Guertin,**

**Petitioner.**

District Court Case: 27-C

Court Order Date: April 12, 2024

**PETITIONER'S RESPONSE TO RESPONDENT'S OBJECTION OF DISCRETIONARY REVIEW**

## INTRODUCTION

In reviewing the State's response, one cannot help but notice a striking resemblance to their previous handling of discovery materials. Just as the authentic discovery photos they maintained custody of somehow ended up cropped, edited, and duplicated for the purpose of crafting a misleading narrative about the Petitioner (Index#29), they now appear to be employing similar techniques in their arguments. Instead of manipulating images, however, they are now selectively editing and cropping out all of the key issues raised by the Petitioner to present the portrayal of a routine petition for discretionary review even though it is anything but.

In *Droher v. State*, 303 Minn. 188, 191-92(1975), the Minnesota Supreme Court concluded that "the determination of competency is a fundamental aspect of ensuring a fair trial," wherein the determination must be based upon "a fair preponderance of the evidence" *State v. Ganpat*, 732 N.W.2d 232,238(Minn.2007). When the State fails to

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consider “a fair preponderance of the evidence” in determining competency, it contravenes the precedent set forth in *Droher* and *Ganpat* and negates the constitutional guarantees of a fair trial and due process under the Sixth and Fourteenth Amendments.

The State isn’t just “failing to consider” evidence in the Petitioner’s case – it’s producing fraudulent versions of its own for the explicit purpose of trying to ensure that the Petitioner is disappeared into a mental institution based on his supposed ‘incompetence’ and “Unspecified Schizophrenia Spectrum and Other Psychotic Disorder” (Index#28,p.122) as reported in the blatantly deceptive and egregious exam report (Index#28,p.116-125) *supposedly* produced by Dr. Jill Rogstad (Index#28,p.100-101,262-263), where almost every single aspect of the Petitioner’s life (Index#28,p.192-197), achievements (Index#28,p.26-36), and SUBSTANTIAL business-related endeavors (Index#84,p.5-7,A(1-6),p.21-24,E(1-14)) involving his granted US Patent-11,577,177 and Netflix, both before and after receiving his criminal charges on January 21, 2023, which the Petitioner asserts is the reason for his criminal charges ever originating in the first place and the reason for everything that is currently taking place in his case, weren’t just completely omitted (Index#28,p.105-108,115,126-129,Index#84,p.11-12,(B3)), but in many instances, were instead actually used as evidence to support the diagnosis itself, as has been unequivocally proven in the Petitioner’s Motion for Judicial Notice: B submitted to this Court on May 28, 2024 (Index#84).

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## ‘DISAPPEARED’ INTO A MENTAL INSTITUTION...

Petitioner does not make the claim of being ‘disappeared’ into a mental institution being the ultimate goal of what is currently taking place in the lower court, without a preponderance of additional evidence to support it:

- The fraudulent discovery photos were provided to the psychologist who conducted Petitioner’s exam following his ‘Petition for Civil Commitment’ (Index#29,p.15) that resulted from the egregious March 10, 2023 Rule 20.01 report. One which concludes with a direct contradiction to the Petitioner’s reported presentation at the in-person March 1, 2023 meeting. (Index#84,p.33-34,J(1-4))
- Following the Petitioner’s second Rule 20.01 exam meeting that took place on January 3, 2024 over Zoom with Dr. Adam Milz, a court order was submitted on January 17, 2024 which contains the following statements:

  (*emphasis is Petitioner*)

  - “Prior to the hearing, the parties agreed to a finding of incompetency entered administratively” (Index#25,p.1) even though Petitioner's defense counsel told him the night before that there was **“No court”** (Index#30,p.35,83(Text-27),p. 135), meaning there was no implied consent as Petitioner never ‘agreed’ to anything at all.
  - “the Defendant may be committed **directly** to an appropriate safe and secure facility” (Index#25,p.3,Id.9)

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- "The head of the treatment facility shall submit a written report addressing the Defendant's competency to proceed in the criminal case when the Defendant has attained competency, **or at least every six months.**" (Index#25,p.3,Id.10)

- A concise overview of the entire timeline surrounding this court order, the surprise civil commitment hearing, the Petitioner's pro se motions for continuance and production of medical records, the court-appointed attorney being provided with an incorrect phone number, and the Petitioner's last-minute signing of a Waiver extending his 'Stayed order of civil commitment' by nine months to avoid appearing in-person at a hearing the following day, which resulted from an agreement he never made, being entered into the record at a court hearing he was told didn't exist, with the direct threat of detainment relying heavily on the contents of a Rule 20.01 exam report he still has never been provided with, can be found here – (Index#83,p.28-30,Index#30,p.35-38,Index#28,p.247-253).
- The Petitioner submitted a pro se follow-up correspondence (Index#36), succinctly summarizing the many unprecedented and extremely concerning actions of the lower court in just three short pages.

## FRAUD ON THE COURT BY THE COURT ITSELF

The State and the lower court refuse to address this topic because it is the 'linchpin' that proves fraud by the lower court and is grounds to have Petitioner's case dismissed. Petitioner has presented this using established and irrefutable forensic methods, proving beyond any reasonable doubt that part of the manipulation is explicitly focused on hiding

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his significant undertakings related to the fabrication of his prototype for his patented technology and concealing full photographs of the invention from the altered police photos (Index#29). Petitioner's presentation makes a compelling case that this fraud was likely carried out in collusion with stakeholders of the Netflix patent. Addressing this issue would not only prove the fraud of the lower court but also unravel the larger patent issue at the core of the Petitioner’s case. They have no argument or rebuttal, so they pretend it simply doesn’t exist.

*State v. Campbell*, 756 N.W.2d 263, 270(Minn.App.2008), and *State v. Burrell*, 772 N.W.2d 459, 466(Minn.2009), further underscore that fraudulent actions by the court are grounds for dismissal, highlighting the unprecedented nature of what the Petitioner brings before this court. Ironically, there is even case law that mirrors this situation and confirms the Petitioner's competence, as seen in *State v. Foss*, A09-2152,p.4(Minn.App. Oct.19,2010).

If the Petitioner is truly incompetent as the State claims, then shouldn't his evidence also be incompetent, just as the exam report and court order that form the entirety of their non-existent ‘preponderance’ of evidence suggest?

- “For example, when Mr. Guertin spoke about his delusional beliefs, he indicated he would present evidence supporting these beliefs.”
- “Specifically, Dr. Rogstad reports that his delusions impacted his perception of relevant evidence”

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- "Her testimony supports these conclusions when she states that Mr. Guertin did not understand evidence"

  (Index#19,p.4)

## INEFFECTIVE ASSISTANCE OF COUNSEL

Petitioner and Bruce Rivers have had a longstanding relationship (Index#30,p.79-80(Texts(1-12)),Index#38,p.2(A),p.33,40,p.10(Al,Am,B),p.74-76), underscoring the out-of-character behavior displayed by Rivers in this case. Petitioner retained Rivers due to his proven abilities and skills as a defense attorney, highlighting the trust and confidence Petitioner initially had in him.

Despite being competent enough to hire Rivers, Petitioner is now allegedly not competent enough to fire him. Rivers has failed to deliver critical discovery materials and the January 3, 2024, examination report, despite multiple requests from Petitioner (Index#30,p.37-38,83(Text(29)),85(Calls(05)),135,Index#38,p.143). This constitutes a significant breach of his duties, as recognized in *State v. Munt,* which highlights that exceptional circumstances affecting counsel's ability to represent must be addressed (*State v. Munt*, 831 N.W.2d 569, 578-79 (Minn. 2013)).

Rivers also misled Petitioner by advising against presenting key evidence at the July 7, 2023, court hearing (Index#30,p.24). This directly prevented the court from considering important information, falling below an objective standard of reasonableness, and potentially altering the outcome of the proceedings as outlined in *State v. Jones*, 392 N.W.2d 224, 236(Minn.1986).

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Additionally, the significant exculpatory evidence Rivers possessed, including photographs and documents proving Petitioner's claims, was not presented in court, further demonstrating ineffective assistance (Index#30,p.60,Index#38,p.99-100,102-103,113-116,118-119). This failure is in direct violation of the standards set forth in *Gates v. State*, which states that a defendant must show that counsel's errors had an adverse effect and that but for these errors, the result of the proceeding would have been different (*Gates v. State*, 398 N.W.2d 558, 562 (Minn.1987)).

Petitioner sent an email to Rivers on June 16, 2023, expressing concerns about a conflict of interest due to Rivers' YouTube channel and previous comments about "powerful people" influencing the case (Index#30,p.23-24,73-76). This highlights a potential conflict of interest, which could impair Rivers' ability to represent his client effectively, as noted in *State v. Plantin*, 682 N.W.2d 653, 663(Minn.App.2004)).

Rivers' promise to represent Petitioner in civil commitment hearings (Index#30,p.24-25,81-82(Text(17-22)) was also unfulfilled, (Index#30,p.25,77-78,82-83(Text(23-26)). Bruce Rivers should be taking steps such as filing a motion to redetermine competency, addressing judicial decisions procured by fraud under Minnesota statute 548.14, and actively defending his client. The lack of these actions demonstrate a current, and ongoing failure to provide effective counsel, leaving Petitioner without any legal support, which is why he’s taken on the role himself.

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## WHY IMMEDIATE REVIEW IS NECESSARY

**1. Questionable Rulings or Unsettled Areas of Law:**

The lower court's rulings in this case are questionable, to say the least, particularly regarding the manipulation of evidence and the fraudulent actions that concealed Petitioner's significant undertakings related to his patented technology. This involves unsettled areas of law where the court must establish legal clarity and consistency (*Lunzer v. State*, 874 N.W.2d 819, 823(Minn.Ct.App.2016); *State v. Johnson*, 463 N.W.2d 527, 532(Minn.1990)).

**2. Impact on Parties' Ability to Proceed:**

The lower court's actions have significantly impeded Petitioner's ability to proceed by preventing him from ever having a fair trial and stripping him of due process through the determination of incompetency (*State v. Smith*, 656 N.W.2d 420, 424(Minn.Ct.App. 2003)).

**3. Importance of the Legal Issue:**

The issues presented in this case are of statewide importance, particularly concerning the integrity of the judicial process and the protection of constitutional rights against fraudulent actions by lower courts. Ensuring uniform application of the law in these matters is crucial (*State v. Henderson*, 706 N.W.2d 758, 760(Minn.2005)).

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**4. Potential to Evade Review:**

If not addressed immediately, the legal issues in this case may evade review altogether. The fraudulent actions and concealment of evidence are likely to remain unchallenged if deferred, preventing judicial scrutiny and perpetuating injustice (*State v. Pendleton*, 427 N.W.2d 272, 273(Minn.App.1998)).

**5. Special Circumstances:**

This case involves complex constitutional issues and significant public interest, particularly due to the involvement of powerful external influences and the concealment of Petitioner's work related to his patented technology and its connection to the Netflix patent stakeholders. These circumstances necessitate discretionary review to address the broader implications of the legal issues involved (*Gordon v. Microsoft Corp*., 645 N.W.2d 393(Minn.2002)).

**6. In the Interest of Justice:**

The fraudulent actions by the lower court, if left unaddressed, undermine the integrity of the judicial process, violate Petitioner's constitutional rights, and cause significant injustice to the Petitioner himself. There is a very real possibility that Petitioner may be unjustly committed to a mental institution solely to 'get him out of the way' due to his discovery of significant patent fraud, the substantial financial incentives involved, and the problems he is causing for powerful individuals and entities. Ensuring that these actions are thoroughly examined and rectified is essential to maintain public trust in the legal

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system (*Doe ex rel. Doe v. Columbia Heights Sch. Dist.*, 842 N.W.2d 38 (Minn.App. 2014)).

## CONCLUSION

The unprecedented nature of Petitioner's case, marked by blatant fraud and manipulation by the lower court, necessitates immediate appellate review. The concealment of evidence, failure to provide critical discovery, and broader implications for Petitioner's patented technology and its stakeholders are of significant public interest and legal importance. The lower court's actions have impeded Petitioner's case and raised fundamental questions about judicial integrity.

Petitioner's case meets multiple standards for discretionary review. The questionable rulings, impact on Petitioner's litigation, importance of the legal issues, potential for these issues to evade review, and the special circumstances surrounding the case all underscore the necessity for this court to exercise its discretionary review powers.

Given the substantial evidence and compelling legal arguments, Petitioner respectfully requests that this Court grant the petition for discretionary review, ensuring justice is served and the integrity of the judicial process is upheld. If left unchallenged, the lower court's actions will perpetuate a grave injustice and undermine the rule of law. Immediate appellate review is imperative in this matter.

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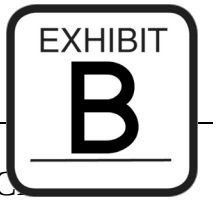


**State of Minnesota,**

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District Court Case: 27-C

Court Order Date: April 12, 2024

**PETITIONER'S CERTIFICATE OF DOCUMENT LENGTH**

## CERTIFICATE OF DOCUMENT LENGTH

The undersigned hereby certifies that this Petitioner's Response to Respondent's Objection of Discretionary Review conforms to the requirements of the applicable rules, is produced with 13-point type and proportional font, and the length of this document is 2,000 words excluding the caption and signature block. This Petitioner's Response to Respondent's Objection of Discretionary Review was prepared using LibreOffice Writer for Linux.