

**STATE OF MINNESOTA**

**IN SUPREME COURT**

Case No. (to be assigned)

In re Petition for Restoration of Rights of

**BRANDON MICHAEL TAMM,**

Petitioner,

v.

**TODD COUNTY SHERIFF MICHAEL ALLEN,**

Respondent.

Court of Appeals File No. A25-0721

District Court File No. 77-CV-24-755

**PETITION FOR REVIEW OF DECISION OF THE COURT OF APPEALS**

(Minn. R. Civ. App. P. 117)

TO: The Supreme Court of the State of Minnesota

This petition asks the Court to preserve the Legislature's civil, de novo judicial-review pathway for Minnesota firearm-permit denials.

Petitioner Brandon Michael Tamm respectfully petitions for review of the Court of Appeals' nonprecedential order opinion filed January 21, 2026, which affirmed the district court's March 3, 2025 order denying relief in this civil permit-to-purchase judicial-review proceeding under Minn. Stat. § 624.7131. (Add. A-4; Add. A-5–A-6.)

This petition does not ask this Court to vacate, withdraw, or modify any criminal conviction or sentence. It seeks only review of the civil permitting decision and the statutory civil review the Legislature prescribed in Minn. Stat. § 624.7131. Any request to disturb the criminal judgment would be pursued (if at all) only through postconviction relief under Minn. Stat. § 590.01.

This case presents a recurring channeling (“lane”) question: whether the Court of Appeals may affirm a permit-to-purchase denial under Minn. Stat. § 624.7131 without deciding any statutory-eligibility issues, on the ground that a petitioner's theories would constitute a collateral attack on a criminal conviction—where the relief sought is limited to the civil permit decision.

## 1. STATEMENT OF LEGAL ISSUE AND DISPOSITION BY THE COURT OF APPEALS (Rule 117.03(a))

Issue (Noske / channeling scope in a civil § 624.7131 review):

Whether, in a civil permit-to-purchase review under Minn. Stat. § 624.7131, the Court of Appeals may affirm solely on Noske channeling grounds without deciding the civil statutory issues decided by the district court under Minn. Stat. §§ 624.713 and 624.7131, where the relief sought is limited to the civil permit decision and does not seek to vacate or set aside the criminal judgment.

Disposition below:

The Court of Appeals held Petitioner’s argument “is not properly before” it because Petitioner “cannot challenge the guilty plea underlying his criminal conviction in a subsequent civil proceeding,” relying on *Noske v. Friedberg* and directing Petitioner to seek postconviction relief. (Add. A-3.) The Court of Appeals did not address either civil statutory basis on which the district court denied relief. (Add. A-3; Add. A-6.)

## 2. CRITERIA FOR DISCRETIONARY REVIEW (Rule 117.02)

A. Important question; statewide consequences for a statutory civil remedy. (Rule 117.02(a), (d))

Minn. Stat. § 624.7131 creates a civil permitting framework and provides de novo judicial review with a defined burden of proof. The Court of Appeals’ approach allows that civil remedy to be defeated without merits review whenever a permit denial is characterized as implicating an underlying conviction—even where the petitioner seeks no conviction relief. (Add. A-3.) Guidance is needed on the boundary between (1) impermissible attempts to invalidate a conviction and (2) permissible civil review of present statutory eligibility consequences.

B. Need to clarify and harmonize the law; recurring appellate-administration problem. (Rule 117.02(d)(2)–(3))

The district court decided two independent civil issues: (1) statutory firearm disqualification under Minn. Stat. § 624.713, and (2) statutory “danger” under Minn. Stat. § 624.7131’s clear-and-convincing burden. (Add. A-6.) The Court of Appeals affirmed without reaching either. (Add. A-3.) If this channeling rationale is left unreviewed, it risks becoming a categorical bar that prevents appellate courts from performing merits review in a broad class of § 624.7131 cases.

The district court also recognized that the interaction between Minn. Stat. § 609.13, subd. 1(1) and Minnesota’s firearm-disability statutes is “a difficult

issue” not directly addressed in a precedential appellate case, underscoring that the remanded merits issues are substantial and recurring. (Add. A-9.)

C. Supervisory powers; departure from accepted course. (Rule 117.02(c))

Section 624.7131’s de novo review and burden allocation are undermined if appellate review can be avoided by labeling the appeal a collateral attack, rather than parsing which civil statutory issues can be decided without disturbing the criminal judgment.

3. STATEMENT OF THE CASE (Facts and procedural history with record references) (Rule 117.03(c))

A. Permit denial and reconsideration.

Petitioner applied to Respondent for a permit to purchase a firearm under Minn. Stat. § 624.7131. Respondent denied the application, citing statutory disqualification and danger grounds. Petitioner sought statutory reconsideration, and the Todd County Attorney’s Office confirmed Respondent’s position. (Add. A-5.)

B. De novo hearing and district court decision.

After a de novo hearing, the district court denied relief on two independent grounds. The court held: (1) Petitioner is prohibited from possessing a firearm under Minn. Stat. § 624.713, subd. 1(2); and (2) Respondent proved by clear and convincing evidence that there is a substantial likelihood Petitioner is a danger to the public when in possession of a firearm under Minn. Stat. § 624.7131. (Add. A-6.)

C. Court of Appeals decision.

The Court of Appeals affirmed solely on the threshold ground that Petitioner's argument was not properly before the court in this civil proceeding under *Noske*, and directed Petitioner to postconviction relief. (Add. A-3.) The Court of Appeals did not address the district court's statutory disqualification analysis or its danger/burden analysis. (Id.)

#### 4. BRIEF ARGUMENT IN SUPPORT OF REVIEW (Rule 117.03(d))

A. The Court of Appeals misapplied *Noske* by refusing to decide independent civil statutory issues.

*Noske* reflects a channeling principle: courts may not grant civil relief that depends on invalidating a criminal conviction while the conviction remains valid. But Petitioner seeks no conviction relief here; he seeks only civil review of the permit decision under § 624.7131 and related firearm-disability statutes. The Court of Appeals nonetheless ended the case on channeling grounds without reaching the independent civil determinations the district court made. (Add. A-3; Add. A-6.)

B. The statutory civil review under § 624.7131 cannot function if appellate merits review is categorically foreclosed.

Section 624.7131 assigns Respondent the burden to justify denial and provides a *de novo* judicial-review mechanism. If a Court of Appeals panel may affirm without deciding whether the district court correctly applied the statutory disqualification provisions or the statute's clear-and-convincing danger burden, the Legislature's civil remedy is materially impaired for a broad class of cases in which criminal-history materials are inevitably part of the civil eligibility record.

C. Vehicle and remedy.

This is a vehicle-safe posture for guidance: the district court decided the civil statutory merits; the Court of Appeals decided none of them because it

disposed on a threshold channeling rationale. (Add. A-3; Add. A-6.) The appropriate remedy is to reverse or vacate the decision insofar as it forecloses § 624.7131 merits review on collateral-attack grounds and remand for merits consideration in the ordinary appellate process.

#### REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. Grant review of the Court of Appeals' January 21, 2026 decision (A25-0721);
2. Reverse or vacate the Court of Appeals' decision insofar as it forecloses merits review under Minn. Stat. § 624.7131 on collateral-attack/channeling grounds; and
3. Remand to the Court of Appeals for merits consideration (including any preservation/adequacy-of-briefing issues) of the civil statutory issues decided by the district court under Minn. Stat. § 624.713 and § 624.7131, without disturbing the underlying criminal judgment, and with permission for supplemental briefing on the statutory issues not reached.

DATED: February 20, 2026

Respectfully submitted,

/s/ Brandon Michael Tamm

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CERTIFICATE OF DOCUMENT LENGTH (Rule 117; Rule 132.01)

I certify that this Petition complies with Minn. R. Civ. App. P. 117 and 132.01 because, excluding the caption, signature block, and any addendum, it contains 1165 words.

/s/ Brandon Michael Tamm

Brandon Michael Tamm

ADDENDUM (Rule 130.02) (to be filed)

1. Court of Appeals Order Opinion, filed January 21, 2026 (A25-0721) (Add. A-1-A-4).
2. District Court Findings of Fact, Conclusions of Law, and Order Denying Writ of Mandamus and Judgment (including memorandum), filed March 3, 2025 (77-CV-24-755) (Add. A-5-A-14).