

FILED
06-18-2025
CLERK OF WISCONSIN
SUPREME COURT

**STATE OF WISCONSIN
IN SUPREME COURT
CASE NO. 2022AP002222 CR**

STATE OF WISCONSIN,

Plaintiff-Respondent-Respondent,

v.

ROGER A. MINCK,

Defendant-Appellant-Petitioner.

PETITION FOR REVIEW

—

PETITION FOR REVIEW OF DECISION
IN THE COURT OF APPEALS, DISTRICT III
FILED MAY 28, 2025

SUBMITTED BY:
CARL W. CHESSHIR
State Bar No. 01008915
Attorney for
Roger Minck
S101 W34417 Hwy LO
Suite B
Eagle, Wisconsin 53119
(414) 899-8579

TABLE OF CONTENTS

| | <u>Page</u> |
|---|--------------------|
| COMPLIANCE CERTIFICATE | 3 |
| ISSUES PRESENTED | 5 |
| CRITERIA FOR REVIEW | 7 |
| STATEMENT OF THE FACTS | 8 |
| STATEMENT OF THE CASE | 10 |
| ARGUMENT | 15 |
| I. THE COURT OF APPEALS AFFIRMED THE JUDGMENT OF CONVICTION BASED ON AN UNPRECEDENT INTERPRETATION OF WIS. STAT. § 940.11(2) BY FINDING THAT THE HIDDEN CORPSE DOES NOT HAVE TO HAVE ANY CORRELATION TO THE CRIME WHICH IS ALLEGED TO BEING CONCEALED | 15 |
| CONCLUSION | 21 |
| APPENDIX CERTIFICATE | 22 |
| PETITIONER’S APPENDIX | 24 |

**STATE OF WISCONSIN
IN SUPREME COURT
CASE NO. 2022AP002222 CR**

STATE OF WISCONSIN,

Plaintiff-Respondent-Respondent,

v.

ROGER A. MINCK,

Defendant-Appellant-Petitioner.

COMPLIANCE CERTIFICATE

I hereby certify that this Petition for Review conforms to the form and length requirements of Rule 809.19(8)(b), (bm) and (8g) in that it is typewritten using a proportional font. The length of this Petition for Review is 3,528 words.

Dated this 16th Day of June 2025.

Electronically signed by:

Carl W. Chesshir
Attorney for Defendant-Respondent,
Roger Minck
State Bar No. 1008915
S101 W34417 Hwy LO
Suite B
Eagle, Wisconsin 53119
(414) 899-8579
carlchesshir@chesshirlaw.com

**STATE OF WISCONSIN
IN SUPREME COURT
CASE NO. 2022AP002222 CR**

STATE OF WISCONSIN,

Plaintiff-Respondent-Respondent,

v.

ROGER A. MINCK,

Defendant-Appellant-Petitioner.

PETITION FOR REVIEW

PETITION FOR REVIEW OF DECISION
IN THE COURT OF APPEALS, DISTRICT II
FILED OCTOBER 23, 2024

Roger A. Minck, by his attorney, Carl W. Chesshir,
hereby petitions the Wisconsin Supreme Court, pursuant to
Wisconsin Statutes sections 808.10 and 809.62, to review the
adverse decision of the Court of Appeals in this case filed on
May 28, 2025.

ISSUES PRESENTED

Minck was convicted on two counts: Hiding a corpse - Wis. Stat. § 940.11(2) and Delivery of Narcotics (Oxycodone) – Wis. Stat. § 961.41(1)(a). (R. 124). Minck admitted at trial that he had sold Oxycodone and also during the investigation before being arrested he told the police that he sold pills. When Thane’s¹ body was recovered, the autopsy revealed that the cause of death was an overdose of Heroin and Fentanyl and Heroin and Fentanyl were recovered from Thane’s corpse. (R. 128; pp. 42 and 97-98). The State contended that Minck hid Thane’s corpse to conceal his selling of Oxycodone. (R. 2.; Criminal Complaint). Thane was a known heroin addict and no evidence was presented at trial that Minck had ever sold heroin, much less that Minck had ever provided Thane with heroin.

Minck argued on appeal that Wis. Stat. § 940.11(2) was not applicable in this case because there was no

¹ Petitioner follows the Court of Appeals’ lead by referring to the victim using the pseudonym of “Thane”.

connection between Thane's corpse and Minck's selling of pills.

Prior cases that have been prosecuted under Wis. Stat. § 940.11(2) have involved a homicide and the hidden corpse provided evidence of the homicide. Minck contends that because he did not commit a crime that was concealed by hiding Thane's corpse that Wis. Stat. § 940.11(2) does not apply in his case.

This case turns on whether the "intent" element of Wis. Stat. § 940.11(2) requires that the crime to be concealed be related to the act of hiding a corpse.

As the Court of Appeals noted, no case law has directly addressed the intent element in Wis. Stat. § 940.11(2). The issue before this court is whether Minck's selling of Oxycodone pills satisfies the intent element of Wis. Stat. § 940.11(2) when the hidden corpse provided no evidence connecting Minck to the Delivery of Narcotics (Oxycodone) – Wis. Stat. § 961.41(1)(a)?

Trial Court: Did not address.

Court of Appeals: Yes.

CRITERIA FOR REVIEW

This case involves the statutory interpretation of Wis. Stat. § 940.11(2). Specifically, the meaning of the phrase “with intent to conceal a crime”. This is a novel issue without legal precedent and a decision from this Court on this issue would clarify the parameters, if any, of the crimes that “hides or buries a corpse” would conceal. In addition, a decision by this Court would impact the statewide implementation of Wis. Stat. § 940.11(2). Finally, the issue in this case is a question of law which is likely to recur and therefore, for the reasons stated above, a review by this Court is warranted pursuant to Wisconsin Statute § 809.62(1r)(c)2 and 3.

STATEMENT OF THE FACTS

Thane went missing on November 5, 2018. (R. 2). T.L., a close friend of Thane, testified that Thane had a heroin addiction. (R. 129; p. 85). T.L. further testified that on November 5, 2018 that Thane told him that he was driving to Eau Claire to see Minck and get heroin. (*Id.* at 89). T.L. also testified that Thane called him from Eau Claire and told him “something was taking longer” and that it would be even longer before he got back home. (*Id.* at 93). Minck, a friend of Thane’s, testified that he was expecting Thane to arrive at his residence and Thane was to drive Minck to purchase a car. (R. 125; pp. 64-65). On November 13, 2018, Minck told the police that Thane never arrived at his residence to drive him to purchase the car. (R. 92; lines 38-65). Minck also at that time, admitted to the police that he dabbled in illegally selling prescription drugs, namely Oxycodone. (*Id.* at 328-359, 686-695). Thane’s vehicle was located at Lake Altoona Dam, some 4.5 miles from Minck’s residence, but Thane or his corpse was not located. (R. 125; pp. 115-116). The police collected DNA samples from Thane’s car, but since Minck had told the police he had driven this car, the police determined that finding Minck’s DNA in the car would not help the investigation. (R.29; p. 116). On November 2, 2018, K.M., Minck’s brother was incarcerated. (R. 129; p. 98). K.M. lived next

door to Minck. (R. 125; p. 22). On or about November 18, 2018, Daniel Schofield, a friend of Thane's, arranged to purchase Oxycodone from Minck. (R. 129; p. 102). On December 6, 2018, the police obtained a search warrant for K.M.'s residence and entered the residence through an open window. (R.29; p. 131). The police found the deceased Thane inside K.M.'s residence. (R. 128; p. 22). The cause of death was by an overdose of heroin and Fentanyl. (*Id.* at 100).

STATEMENT OF THE CASE

A Criminal Complaint was filed on December 23, 2020 which alleged one count of Hiding a Corpse pursuant to Wis. Stats. § 940.11(2); one count of Delivery of Schedule I or II Narcotics pursuant to Wis. Stats. § 961.41(1)(a); one count of Maintaining a Drug Trafficking Place pursuant to Wis. Stats. § 961.42(1); and one count of Burglary of a Building or Dwelling pursuant to Wis. Stats. § 943.10(1m)(a) against Roger Minck (“Minck”). (R. 2).

An initial appearance was held on January 14, 2021. (R. 127). The court set cash bail at \$10,000.00. (*Id.* at 5).

A status hearing was held on February 10, 2021. (R. 135). At that time Minck requested a preliminary hearing. (*Id.* at 3). The court also denied Minck’s request for bond modification. (*Id.* at 6).

On March 16, 2021 a preliminary hearing was held (R. 133). The court heard testimony from Police Officer Justin Greuel. (*Id.* at 5-15). The court bound the case over for trial. (*Id.*).

An arraignment was held on April 7, 2021. (R. 121). Minck acknowledged receiving the Information, waived its reading and entered a not guilty plea on all counts. (*Id.* at 4). The court also heard Minck’s motion to modify bond and the court denied the motion. (*Id.* at 14).

A status conference was held on June 22, 2021. (R. 132). The court noted that Minck had filed a speedy trial demand on June 14, 2021. (*Id.* at 2). The court set a trial date. (*Id.* at 4). The court also denied Minck's request to modify bond. (*Id.* at 9).

On July 2, 2021 a status conference was held. (R. 131). The court ruled on the pretrial motions filed by the State. (*Id.* at 2-4). The court also denied Minck's request for a bail reduction. (*Id.* at 9).

On August 13, 2021 a status conference was held. (R. 130). At this hearing, the court confirmed that the health of Minck's trial counsel would not affect the trial date. (*Id.* at 3). Minck also requested the court to consider reducing his bail and the court denied the request. (*Id.* at 7).

A status hearing was held on September 8, 2021. (R. 122). The court was advised that Minck's trial counsel was in an auto accident and not able to try this case on the trial date. (*Id.* at 3-4). The court granted the continuance for good cause. (*Id.* at 10). The court also denied Minck's request to modify his bail. (*Id.* at 11).

The jury trial commenced on November 29, 2021. (R. 129). A reserve judge was assigned to the case, and this judge held a pretrial conference before the jury trial commenced. (*Id.* at 1-15). Voir dire of the jury was then started and as jury selected. (*Id.* at 16-50). The court then

instructed the jury. (*Id.* at 50-62). Opening statements were made by both the State and Minck. (*Id.* at 62-75). The jury then heard testimony from the State witnesses, Jennifer Click, Thomas Loader, Kenneth Minck, Daniel Schofield, Heidi Schultz, Detective Mike Osmond and Detective Ryan Greener. (*Id.* at 76-134).

The jury trial continued on November 30, 2021. (R. 128). The jury then heard testimony from Sargent Arthur Jaquish, Officer Tyler Larsen, Marcie Marcelle Rosas, medical examiner, Police Officer Justin Greuel, Stephanie Diepenbrock, substances analyst, Samantha Delfosse, DNA analyst, Sargent Brandon Ring, Lieutenant Mark Pieper, Sargent Bridget Coit, Dr. Robert Corliss, forensic pathologist. (*Id.* at 11- 101). The court then adjourned the trial for the evening. (*Id.* at 112).

On December 1, 2021, the third day of the jury trial was held. (R. 125). The jury heard testimony from Sergeant Brian Trowbidge. (*Id.* at 5-58). The State then rested. (*Id.* at 58). The court then held a colloquy with Minck in regards to his testimony. (*Id.* at 58-61). The court found that Minck had knowingly and intelligently made the decision to testify. (*Id.* at 61). The jury then heard testimony from Minck. (*Id.* at 62-83). The court reviewed jury instructions with the parties and then adjourned for the day. (*Id.* at 84-95).

On December 2, 2021, the jury trial continued. (R. 126). The court first instructed the jury. (*Id.* at 11-23). The jury then heard closing arguments from the State and Minck and a rebuttal argument by the State. (*Id.* at 23-44). The court then gave the jury its final instructions and swore in the bailiffs. (*Id.* at 45-47). The jury was excused for deliberations. (*Id.* at 47). The court was then informed that the jury had reached a verdict. (*Id.* at 53). The jury returned its verdict finding Minck guilty in Count One on the charge of hiding a corpse; guilty in Count Two on the charge of delivery of Schedule I or II narcotics; and guilty in Count Three guilty of maintaining a drug trafficking place. (*Id.* at 54). The court polled the jury. (*Id.* at 55). The court revoked bond and ordered a presentence investigation report. (*Id.* at 57).

Minck was sentenced on March 14, 2022. (R. 56). The court first heard argument from the State and listened to victim statements. (*Id.* at 4-29). The court then heard argument from defense counsel and listened as defense counsel read a letter written by Minck in lieu of making a statement to the court. (*Id.* at 29-34). The court then sentenced Minck on Count 1 to 6 years of initial confinement, 5 years of extended supervision; on Count 2, 6 years of initial confinement, 5 years of extended supervision served consecutively to Count 1; and on Count 3, imposed and stayed one and a

half years of initial confinement followed by 2 years of extended supervision and placed on probation for 3 years consecutive to listened Counts 1 and 2, for a total sentence of 12 years on initial confinement and 10 years on extended supervision with 3 years on probation. (*Id.* at 42-43).

On May 28, 2025, the court of appeals issued its decision, which affirmed Minck's Judgment of Conviction. (Decision, May 28, 2025 District III).

ARGUMENT

I. THE COURT OF APPEALS AFFIRMED THE JUDGMENT OF CONVICTION BASED ON AN UNPRECEDENT INTERPRETATION OF WIS. STAT. § 940.11(2) BY FINDING THAT THE HIDDEN CORPSE DOES NOT HAVE TO HAVE ANY CORRELATION TO THE CRIME WHICH IS ALLEGED TO BEING CONCEALED.

Wis. Stat. § 940.11(2) states as follows:

(2) Whoever hides or buries a corpse, with intent to conceal a crime or avoid apprehension, prosecution, or conviction for a crime or notwithstanding s. 946.90(2) or (3), 946.91(2), 946.92, or 946.93(2) or (3) with intent to collect benefits under the assistance program for families with dependent children administered under ss. 49.141 to 49.161, the Medical Assistance program administered under subch. IV of ch. 49, or the food stamp program, as defined in s. 49.79(1) (c), is guilty of a Class F felony.

As noted in the Court of Appeals decision, there is little case law regarding hiding a corpse and no published case law regarding the intent element of hiding a corpse. (Decision. ¶ 42). The Court of Appeals further stated that the “statute does not specify the *type* of crime that the person must intend to conceal. *Id.* at ¶ 43. Minck disagrees. Reading the statute in its entirety clearly shows that the crimes or acts that are meant to be concealed are connected to the hidden corpse.

Wis. Stat. § 940.11(2) identifies six specific actions that evince intent when hiding a corpse: 1) When the disclosure of a corpse would

directly affect the perpetrator's eligibility to collect job access loans pursuant to Wis. Stat. §§ 49.141-49.161, the Wisconsin Works statutes; 2) when the disclosure of a corpse would directly impact the perpetrator's eligibility to receive medical and health benefits under IV Chapter 49 – Medical Assistance; 3) when the disclosure of the corpse would directly impact the perpetrator's ability to receive Food Stamps pursuant to Wis. Stat. § 49.79(1); 4) when hiding the corpse would directly assist the perpetrator in avoiding apprehension; 5) when hiding the corpse would directly assist the perpetrator in avoiding prosecution; and, 6) when hiding the corpse would directly assist the perpetrator to avoid a conviction.

Wis. Stat. § 940.11(2) identifies one general action, "to conceal a crime". In interpreting the statute, the entire statute is to be construed as a whole. *Johnson v. State*, 76 Wis.2d 672, 676, 251 N.W.2d 834 (Wis. 1977) (a maxim of statutory construction that a law should be so construed that no word or clause shall be rendered surplusage). Where the six specific acts all require the hidden corpse to implicate the perpetrator, it is reasonable to infer that "to conceal a crime" also requires implicating the perpetrator. To follow the Court of Appeals interpretation, "to conceal a crime" essentially means any and all actions and no implication to a perpetrator. This interpretation renders the balance of the statute as surplusage. (*Id.*). Since

every word of the statute must be given effect, the Court of Appeals interpretation must fail.

In Wis. Stat. § 940.11(2), there are six specific acts that require the hidden corpse to be connected to the perpetrator of specific acts, to harmoniously render the statute all seven acts are to be read as being compatible, not in contradiction. *Eau Claire Cnty. Dep't of Human Servs. v. S.E. (In re T.L.E.-C.)*, 960 N.W.2d 391, 2021 WI 56 (Wis. 2021) (the harmonious-reading canon, which instructs that "[t]he provisions of a text should be interpreted in a way that renders them compatible, not contradictory."). In addition, specific acts prevail over general acts. *State ex rel. Auchinleck v. Town of LaGrange*, 200 Wis.2d 585, 596, 547 N.W.2d 587 (1996), (Where general and specific statutory provisions are in conflict, the specific provisions take precedence). As a result, the statute is to be read that the intent would be connected to a specific act or crime. To follow the Court of Appeals reasoning, any crime can be alleged because a defendant's intent would be "ill-conceived or irrational" to conceal the crime and would render absurd results. *See Keith v. Keith-Hansen*, 362 Wis. 2d 540, 865 N.W.2d 885 (Ct. App. 2015) "the canon of statutory construction that, whenever possible, statutes should be interpreted to avoid

unreasonable or absurd results.” *Citing Hines v. Resnick*, 2011 WI App 163, ¶ 12, 338 Wis.2d 190, 807 N.W.2d 687.

Minck contends that “the intent to conceal a crime” requires that the crime be related to the corpse. In this case, Thane’s cause of death was an overdose of Heroin and Fentanyl. (R. 128; pp. 97-98). Recovered from Thane’s body was Heroin and Fentanyl. (R. 128; p. 42). Whoever delivered the heroin and Fentanyl to Thane would be guilty of a *Len Bias-type* homicide pursuant to Wis. Stat. § 940.02(2)(a). This is the crime that would have been concealed by hiding Thane’s corpse. The application of Wis. Stat. § 940.11(2) in this manner would be consistent with Wisconsin case law.

For example, in *State v. Badker*, 2001 WI App 27, 240 Wis. 2d 460, 623 N.W. 142, the defendant was convicted of Wis. Stat. § 940.11(2). *Id.* at ¶ 1. The defendant strangled the victim to death in a parked truck outside a locked gate leading into the Necedah Wildlife Refuge and then, he rolled the body onto a blanket, then pulled the blanket over to a ditch inside the Necedah Wildlife Refuge and dumped the corpse into the water. Photographs of the location entered into evidence at trial reveal that it is a wooded, secluded spot. A locked gate prevents cars from driving into it. Except for trappers, members of the public are not allowed past the gate

until twenty-four hours before the opening of gun deer hunting season. The secluded nature of the spot where the corpse was discovered by a fur trapper, as well as defendant's actions in dragging it to the ditch and rolling it down into the water, provided sufficient evidence from which the jury could have concluded beyond a reasonable doubt that he hid the corpse. *Id.* at ¶¶ 3 and 26. The defendant had confessed to the case and clearly, the defendant's intent by hiding the corpse was to conceal his crime of strangulating the victim to death.

The Minnesota Supreme Court in *State v. Hicks*, 864 N.W.2d 153, 160 (Minn. 2015), explained the relationship of a homicide and the concealing of a corpse. The Minnesota Supreme Court determined that concealing a body after a homicide was part of the same behavioral incident as the homicide itself. The court explained that Minnesota has "long recognized that a defendant's conduct in concealing a crime is part of the same behavioral incident as the underlying offense." *Id.* Thus, the dissent's claim that Hicks's concealment of Rush's body necessarily constitutes a separate offense is without merit. *Id.* at 161. However, the *Hicks* court did find that concealing the body constituted an aggravating factor for sentencing. *Id.* at 163. Clearly, other jurisdictions have found that the hiding of a homicide victim's body is linked to the homicide crime.

Clearly a decision by this Court clarifying the language in Wis. Stat. § 940.11(2) as to how “with intent to conceal a crime” is related to “hides or buries a corpse” would be beneficial and provide statewide impact.

CONCLUSION

For all the reasons stated above, the petitioner, Roger Minck, asserts that the Court of Appeals decision to affirm his conviction was based on an erroneous interpretation of Wis. Stat. § 940.11(2). The petitioner respectfully requests that the Wisconsin Supreme Court review the decision of the Court of Appeals, District III.

Dated this 16th Day of June 2025.

Electronically signed by:

Carl W. Chesshir
Attorney for Defendant-Respondent,
Roger Minck
State Bar No. 1008915
S101 W34417 Hwy LO
Suite B
Eagle, Wisconsin 53119
(414) 899-8579
carlchesshir@chesshirlaw.com