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CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN
IN SUPREME COURT

Case No. 2022AP2222-CR

STATE OF WISCONSIN,
Plaintiff-Respondent,

v.

ROGER A. MINCK,
Defendant-Appellant.

RESPONSE TO PETITION FOR REVIEW

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ARGUMENT

The State of Wisconsin opposes Roger A. Minck's petition for review in *State v. Minck*, No. 2022AP2222-CR, 2025 WL 1518170 (Wis. Ct. App. May 28, 2025) (recommended for publication) (Pet-App. 4–25). The victim died of a drug overdose at Minck's home from a combination of fentanyl and heroin. *Minck*, 2025 WL1518170, ¶ 19. The victim went missing for one month after his death. *Id.* ¶ 13. Police eventually found the victim's body covered by a tarp bearing Minck's DNA in the other half of the duplex in which Minck resided. *Id.* ¶¶ 13, 15–17. Minck's brother lived in that half of the duplex but was incarcerated during the victim's disappearance. *Id.* ¶ 13. Minck subsequently admitted to selling oxycodone out of his house. *Id.* ¶¶ 12, 22.

A jury found Minck guilty of hiding a corpse, drug trafficking, and maintaining a drug trafficking place for the purpose of selling oxycodone. *Id.* ¶¶ 1 & n.1, 41 & n. 8. On appeal, he challenged the sufficiency of the evidence for his conviction for hiding a corpse. *Id.* ¶ 1. In his petition for review, Minck renews only one of his two arguments in the court of appeals. At trial, the State had to prove that Minck hid the victim's corpse “with intent to conceal a crime” pursuant to Wis. Stat. § 940.11(2). Minck maintains that “the State was required—and failed—to prove that he hid the victim's corpse with intent to conceal the victim's *homicide*.” *Minck*, 2025 WL 1518170, ¶ 3 (emphasis added); (Minck's Pet. 15–20.) He argues that the State failed to prove this element because a combination of heroin and fentanyl caused the victim's death, but the evidence did not establish that Minck provided heroin or fentanyl to the victim. (Minck's Pet. 15, 18.)

The court of appeals easily rejected this argument. “By its plain language, Wis. Stat. § 940.11(2) merely requires that a person hide a corpse ‘with intent to conceal *a crime*.’” *Minck*,

2025 WL 1518170, ¶ 43. The Legislature could have, but obviously did not, limit “a crime” to crimes pertaining to the cause of the victim’s death. *Id.* ¶ 44 & n.10. The court of appeals observed that it had no authority to read such a limitation into the statute. *Id.* ¶ 43. The evidence was therefore sufficient to support Minck’s conviction because it established that he concealed the victim’s corpse to conceal the drug trafficking that he conducted out of his home. *Id.* ¶ 46.

Minck stakes his petition for review entirely on the novelty of this statutory issue and the court of appeals’ publication recommendation. (Minck’s Pet. 6.) Prior to this decision, “there [was] little case law addressing the crime of hiding a corpse, and there [were] no published opinions addressing the intent element of that crime.” *Id.* ¶ 42. Despite the novelty of the issue, Minck’s petition for review does not meet this Court’s criteria for review. Wis. Stat. § (Rule) 809.62(1r). A petitioner must still show “special and important reasons” for granting review. *Id.* None exist here. To the contrary, two compelling reasons support denying his petition.

First, the court of appeals’ decision does not present a knotty or complex question of statutory interpretation. The statutory interpretation here was straightforward, and the court of appeals plainly did not err. The court of appeals correctly recognized that “a crime” has no limiting language such that only specific types of crime suffice for the offense. *See Minck*, 2025 WL 1518170, ¶ 43. The court of appeals recommended this decision for publication to address a gap in the caselaw and to foreclose future litigants from making the same argument as Minck. That decision, alone, does not justify this Court’s review because the court of appeals’ conclusion is obviously correct. This Court does not need to devote part of its discretionary docket to reaffirming that “a crime” does, in fact, mean “a crime.”

Second, Minck would still lose even if this Court were to accept his interpretation of Wis. Stat. § 940.11(2). The court of appeals held in the alternative that, even if the crime to be concealed had to be related to the victim's death as Minck argued, the evidence was still sufficient to convict Minck. *Minck*, 2025 WL 1518170, ¶ 50. The evidence enabled the jury to reasonably infer that Minck hid the victim's corpse because he subjectively "feared being charged" for the victim's death, even if he was never charged for causing the victim's death. *Id.* ¶ 52. Thus, Minck's single argument is not even dispositive. This Court should not grant review when it would be limited to issuing an advisory opinion even if it accepted Minck's argument.

CONCLUSION

This Court should deny Minck's petition for review.

Dated this 23rd day of June 2025.

Respectfully submitted,

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FORM AND LENGTH CERTIFICATION

I hereby certify that this petition or response conforms to the rules contained in Wis. Stat. §§ (Rules) 809.19(8)(b), (bm) and 809.62(4) for a petition or response produced with a proportional serif font. The length of this petition or response is 790 words.

Dated this 23rd day of June 2025.

Electronically signed by:

Michael J. Conway
MICHAEL J. CONWAY

CERTIFICATE OF EFILE/SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed this document with the clerk of court using the Wisconsin Appellate Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 23rd day of June 2025.

Electronically signed by:

Michael J. Conway
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