

**STATE OF MINNESOTA**  
**IN COURT OF APPEALS**

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**FILED**

February 7, 2017

**OFFICE OF  
APPELLATE COURTS**

State of Minnesota,

Plaintiff,

vs.

James Warren Northrup,

Defendant,

Todd Jeremy Thompson,

Defendant.

**ORDER**

**#A17-0168**

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**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE  
THERE IS A QUESTION WHETHER THIS COURT HAS JURISDICTION:**

1. This certified question was filed on February 2, 2017.
2. By amended notice of case filing dated February 2, 2017, the clerk of the appellate courts, at this court's directive, notified the parties that the defendants shall proceed as appellants and file a statement of the case, with proof of service on opposing counsel, and shall order any necessary transcripts.
3. Defendants were charged with two counts of violating fish and game laws and two counts of violating watercraft laws, after conservation officers observed them in a canoe, placing a gill net into Gull Lake. Defendants filed a motion to dismiss the charges, claiming that they enjoy certain rights as enrolled members of the Minnesota Chippewa Tribe and that the state lacks jurisdiction over them.

4. In its order, the district court noted that the parties provided the court with “great detail and historical context of treaties entered into between the government and the Chippewa” and that “[u]pon review of the exhibits and arguments of counsel, . . . [the court] finds that the issues presented are questions that are important and doubtful and will have statewide impact.” The court also noted that “[d]efendants have consented to the certification.”

5. The district court certified the following two questions: “Whether the State of Minnesota has subject matter jurisdiction over the offenses charged, and [w]hether applicable treaties exist to offer Defendants protection from state infringement and regulation in the area at issue as pertaining to the charged conduct.”

6. Before certifying a question under Minn. R. Crim. P. 28.03, the district court must decide and answer the question. *State v. Brink*, 500 N.W.2d 799, 802 (Minn. App. 1993); *State v. Braun*, 354 N.W.2d 886, 887 (Minn. App. 1984). This court will not accept certified questions that have not been ruled on by the district court. *Braun*, 354 N.W.2d at 887; *see State v. Munnell*, 341 N.W.2d 570, 572 (Minn. App. 1983) (stating that district courts “should issue written orders with respect to their rulings on the questions certified”).

7. The district court certification order does not indicate that the court has ruled on the questions. Although there is no indication in the written order of an earlier ruling, the court could have ruled from the bench on the certified question.

**IT IS HEREBY ORDERED:**

1. On or before February 17, 2017, the parties shall serve and file (by E-MACS, if required by the supreme court's order on mandatory e-filing) signed informal memoranda addressing the following questions:

- (a) Has the district court ruled on the questions certified to this court?
- (b) If the answer to (a) is yes, what was the district court's ruling on the certified questions?

2. Untimely memoranda may not be considered by the court.

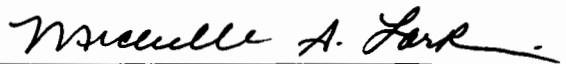
3. On or before January 12, 2017, defendants shall file a statement of the case that conforms to Form 13, with proof of service on opposing counsel, and any written request for transcripts.

4. Briefing is stayed pending a decision by this court regarding jurisdiction. A briefing order will be issued if this court determines that it has jurisdiction over the certified question.

5. The clerk of the appellate courts shall provide a copy of this order to the Honorable Kristine R. DeMay, to counsel of record, and to the district court administrator.

**Dated:** February 6, 2017

**BY THE COURT**

  
Judge Michelle A. Larkin