

**Case No. A24-_____
State of Minnesota
In Court of Appeals**

**IN RE CALM WATERS CANNABIS CO., WECAN CULTIVATION INC.,
KIND BUD, INC. KING KIND INC., MN GROWN CORP., ELM WOODS
FARM, TOP SHELF TERPS CANNABIS COMPANY,**

Petitioners,

**Cristina Aranguiz and Jodi Connolly, Green Leaf MN LLC, Wild
Domain, LLC, and Hendo Industries LLC, Northern Illusion LLC,
Milstagrams LLC, Better Bud Co LLC, Thrifties LLC et. al.,**

Plaintiffs,

vs.

Minnesota Office of Cannabis Management, Charlene Briner,

Defendants.

On Petition for a Writ of Prohibition to the Ramsey County District Court
Second Judicial District
Case Nos. 62-CV-24-7403, 62-CV-24-7412,
62-CV-24-7413, 62-CV-24-7411
The Honorable Stephen L. Smith

**PETITION FOR A WRIT OF PROHIBITION
ON THE RAMSEY COUNTY DISTRICT COURT'S NOVEMBER 25
ORDER STAYING THE OFFICE OF CANNABIS MANAGEMENT'S
LICENSE PREAPPROVAL LOTTERY**

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The Petitioners Calm Waters Cannabis Co., WeCan Cultivation Inc., Kind Bud, Inc., King Kind Inc., MN Grown Corp., Elm Woods Farm, and Top Shelf Terps Cannabis Company request a writ of prohibition restraining the Ramsey County District Court from enforcing its order of November 25, 2024.

INTRODUCTION

On November 25, 2024, Ramsey County District Court Judge Stephen L. Smith heard a Motion for a Temporary Restraining Order seeking to stop the Minnesota Office of Cannabis Management (OCM) from running a licensing preapproval lottery set to take place the following day. *See* Pet. Addendum (Add.) at 001–003. The district court expressly recognized its lack of subject matter jurisdiction. Not only was the preapproval lottery, by law, non-appealable; but to the extent reviewable, the case clearly sought review of a quasi-judicial agency action reviewable only at the Minnesota Court of Appeals. Judge Smith nonetheless issued an indefinite stay to prohibit OCM running the preapproval lottery. *See id.* at 003.

Petitioners were among the 648 applicants who were accepted into the lottery that should have been run on November 26, 2024. Because the district court plainly lacked jurisdiction, Petitioners seek a writ of prohibition lifting the district court’s stay in *Aranguiz & Connolly v. Minnesota Office of Cannabis Management & Charlene Briner*, Case No. 62-CV-24-7403 (Nov. 25, 2024), *Green Leaf MN LLC v. Minnesota Office of Cannabis Management &*

Charlene Briner, Case No. 62-CV-24-7412 (Nov. 25, 2024) (Add. 001–003), *Wild Domain, LLC v. Minnesota Office of Cannabis Management & Charlene Briner*, Case No. 62-CV-24-7413 (Nov. 25, 2024), and *Hendo Industries LLC, Northern Illusion LLC, Milstagams LLC, Better Bud Co. LLC, Thrifties LLC et. al. v. Minnesota Office of Cannabis Management & Charlene Briner*, Case No. 62-CV-24-7411 (Nov. 25, 2024).

The license preapproval process is a one-time mechanism created by the legislature to address urgent, time-sensitive challenges critical to standing up Minnesota’s cannabis market. By providing operationally ready social equity applicants with early confirmation of their qualifications, the preapproval process helps applicants secure property, financing, and local government approvals necessary to launch their businesses. This process ensures equity, timely market readiness, and compliance with legislative intent.

BACKGROUND

I. The Minnesota Legislature Creates a Pre-Approval Licensing Process.

In 2023, the Minnesota Legislature legalized adult-use cannabis and implemented a cannabis business licensing and regulatory regime. Minn. Stat. § 342.09 (2023). The cannabis licensing regulatory scheme is tiered in numerous ways, providing for different types of applicants, different types of licenses, and different schedules for licensing approvals. During the 2024

Legislative Session, the Legislature amended the cannabis regulatory regime.

Relevant to this action, the Legislature added a one-time process for social equity verified applicants to seek license preapproval prior to adoption of the initial rules and the commencement of full licensing. 2024 Minn. L. 121, art. 2, § 148, subds. 1–2 (May 24, 2024). Under the statute, OCM could accept applications for license preapproval from verified social equity applicants between July 24, 2024 and August 12, 2024. *Id.*, subd. 3. The number of licenses were limited to 282, with a pre-set number of licenses by license category type. *Id.* subd. 1(b). If OCM elected to accept applications for license preapproval and the number of applications exceeded the number of preapprovals authorized, the statute required that OCM “must conduct a lottery to select applicants for license preapproval.” *Id.*, subd. 6.

When explaining the purposes of the preapproval process, the Legislature and OCM focused on two primary aspects: (1) preapproval would help “expedite the process of setting up a good legitimate marketplace for cannabis to displace the illicit marketplace that’s out there” by allowing early cultivation, and (2) it would allow historically disadvantaged populations to “line up capital, secure real estate, do all of those things knowing that they will have a license down the road which will effectuate a faster startup once those licenses are actually issued.” *See* Comments of Rep. Zack Stephenson (Author), House Debate on H.F. 4757 (Apr. 14, 2024). The legislature explicitly

tied preapproval to helping applicants secure local government zoning and planning approvals, recognizing the competitive and capped nature of many local jurisdictions. *See, e.g.*, 2024 Minn. L. 121, art. 2, § 148, subd. 8 (May 24, 2024). For example, towns like Breckenridge award local permits on a first-come, first-served basis, where preapproval status provides a decisive advantage. This legislative intent aligns with the broader goals of prioritizing operational readiness and enabling social equity applicants to overcome systemic barriers.

Interim Director of OCM, Charlene Briner, also explained the bill contained detailed criteria by which applications for license preapproval would be vetted and either denied or accepted. Comments of Charlene Briner, House Hearing on H.F. 4757 (Mar. 22, 2024).¹ These application requirements and criteria for preapproval application review are enacted at 2024 Minn. L. 121, art. 2, § 148, subd. 4 and 5 (May 24, 2024). The legislation provides that this process for licensing preapproval is a one-time process to take place before the adoption of initial rules. *Id.*, subd. 1. The legislation also provides the requirements and process by which license preapproval can be converted to a license following the adoption of OCM's initial rules. *Id.*, subd. 10. Elsewhere

¹ Ms. Briner's presentation slides and an OCM handout are available at <https://www.house.mn.gov/comm/docs/0UqCyJx75kWAFn1oqNEq4Q.pdf>.

Chapter 342 provides requirements for the issuance of regular licensing after the adoption of rules. *See* Minn. Stat. § 342.14.

Consistent with the Legislature’s focus on efficiency for the preapproval lottery, the statute required that OCM notify an applicant of denial, but it did not require that OCM provide an opportunity to cure deficiencies in the application contents. 2024 Minn. L. 121, art. 2, § 148, subd. 5(c)–(e). The statute also does not provide for judicial review of a denial decision. *See generally id.*

II. OCM Permits and Reviews Applications for Pre-Approval.

In 2024, OCM promptly created an application process for license preapprovals. During the application window, it received nearly 2,000 applications for just 282 available preapprovals.² *Id.*, subd. 1. As part of the preapproval process, the Legislature required OCM to verify an applicant’s status as a social equity applicant and gave OCM discretion to deny an application in several circumstances, including if the application was incomplete or if the applicant did not meet statutory requirements. *Id.*, subds. 2 & 5.

As required by the statute, OCM reviewed the applications. At least

² *See Applicants sue Minnesota’s Office of Cannabis Management over disqualification*, MPR News (Nov. 22, 2024).

some applicants who were denied received notice by November 18, 2024. *See generally Aranguiz & Connolly v. Minnesota Office of Cannabis Management*, Complaint, Case No. 62-CV-24-7403 (Nov. 21, 2024), at ¶ 2. Petitioners were among the applicants who received letters indicating that they were found to be qualified and eligible for the preapproval lottery. Their approvals were not received until November 22, 2024. Following its review, OCM determined that 648 applicants had proven their qualification to participate in the pool. OCM planned to hold a lottery on November 26, 2024.³

III. Denied Applicants Bring Case to Stop the Lottery From Occurring.

Just five days before the lottery was scheduled to take place, on November 21, 2024, Cristina Aranguiz and Jodi Connolly sued OCM in Ramsey County District Court⁴ alleging that their applications were improperly denied by OCM. *See generally Aranguiz & Connolly v. Minnesota Office of Cannabis Management*, Complaint, Case No. 62-CV-24-7403 (Nov. 21,

³ *See Minnesota Office of Cannabis Management Sets Date for Cannabis License Preapproval Selection Lottery*, OCM <https://mn.gov/ocm/media/news-releases/?id=1202-655136#:~:text=%E2%80%94On%20Tuesday%2C%20November%2026%2C,in%20Minnesota%20Statutes%2C%20Chapter%20342..>

⁴ When Plaintiffs filed in district court, a different Ramsey County judge had already correctly ruled that district courts lacked subject matter jurisdiction to consider challenges to an OCM denial. *See King v. Minn. Office of Cannabis Mgmt.*, Case No. 62-CV-24-4867, Docket No. 40 at 12–13 (Minn. Dist. Ct. Sept. 23, 2024) (J. Aligada).

2024). Aranguiz and Connolly alleged that on November 18, 2024, OCM denied Cristina Aranguiz’s and Jodi Connolly’s applications. *Id.* ¶ 2.

On November 22, Aranguiz and Connolly moved for a Temporary Injunction or a Temporary Restraining Order (TRO), seeking to prevent OCM from holding the preapproval lottery until the matter was resolved. *Aranguiz & Connolly v. Minnesota Office of Cannabis Management*, Plaintiffs’ Notice of Motion and Motion for a Temporary Restraining Order or Temporary Injunction, Case No. 62-CV-24-7403 (Nov. 22, 2024).⁵

That same day, OCM moved to dismiss the case because the district court lacked subject matter jurisdiction. *Aranguiz & Connolly v. Minnesota Office of Cannabis Management*, Motion to Dismiss, Case No. 62-CV-24-7403 (Nov. 22,

⁵ The district court combined Cristina Aranguiz and Jodi Connolly’s lawsuits with additional plaintiffs, who subsequently filed separate lawsuits with similar claims and joined in the motion for a temporary injunction. *See* Add. at 002 (District Court Order ¶ 1); *see also Green Leaf MN LLC v. Minnesota Office of Cannabis Management & Charlene Briner*, Complaint and Emergency Motion for Temporary Restraining Order and Preliminary Injunction, Case No. 62-CV-24-7412 (Nov. 22, 2024); *Wild Domain, LLC v. Minnesota Office of Cannabis Management & Charlene Briner*, Complaint and Emergency Motion for Temporary Restraining Order and Preliminary Injunction, Case No. 62-CV-24-7413 (Nov. 24, 2024); *Hendo Industries LLC, Northern Illusion LLC, Milstagrams LLC, Better Bud Co. LLC, Thrifties LLC et. al. v. Minnesota Office of Cannabis Management & Charlene Briner*, Complaint, Case No. 62-CV-24-7411 (Nov. 22, 2024) (requesting temporary injunction as Count II); *Hendo Industries LLC, Northern Illusion LLC, Milstagrams LLC, Better Bud Co. LLC, Thrifties LLC et. al. v. Minnesota Office of Cannabis Management & Charlene Briner*, Notice of Motion and Motion for TRO, Case No. 62-CV-24-7411 (Nov. 22, 2024).

2024).⁶ OCM explained that the district court lacked subject matter jurisdiction to review OCM’s decision because the decision was a quasi-judicial decision that needed to be raised through certiorari review in the Court of Appeals. Add. at 004–009 (*Aranguiz & Connolly v. Minnesota Office of Cannabis Management*, Memorandum of Law in Support of Defendants’ Motion to Dismiss, Case No. 62-CV-24-7403 (Nov. 22, 2024)).⁷

The district court set a hearing on the motions for a TRO and motions to dismiss for November 25, 2024—the eve of the lottery planned for November 26. Shortly after the hearing, the district court issued an order: (1) finding that the plaintiffs needed to file a writ of certiorari to the Court of Appeals to seek review because the district court lacked subject matter jurisdiction,⁸ but

⁶ See also *Green Leaf MN LLC v. Minnesota Office of Cannabis Management & Charlene Briner*, Motion to Dismiss, Case No. 62-CV-24-7412 (Nov. 24, 2024); *Hendo Industries LLC, Northern Illusion LLC, Milstagrams LLC, Better Bud Co. LLC, Thrifties LLC et. al. v. Minnesota Office of Cannabis Management & Charlene Briner*, Motion to Dismiss, Case No. 62-CV-24-7411 (Nov. 24, 2024).

⁷ OCM also argued that the legal factors did not weigh in favor of a TRO. Indeed, OCM argued that the stay would prevent OCM from running the lottery and would negatively impact other participants. Petitioners agree—the stay has prevented OCM from issuing *any and all* license preapprovals, contrary to explicit legal requirements to do so.

⁸ A decision that a writ of certiorari is the proper path for judicial review is necessarily a decision that the district court lacked subject matter jurisdiction. See e.g., *Dokmo v. Independent Sch. Dist. No. 11, Anoka–Hennepin*, 459 N.W.2d 671, 677–78 (Minn. 1990) (when writ of certiorari was only way to obtain review, district court lacked subject matter jurisdiction to decide declaratory judgment action).

nonetheless (2) ordering OCM to stay the preapproval lottery pending a decision from the Court of Appeals. Add. at 001–003.

IV. The Stay Adversely Affects Minnesota and Petitioners.

Petitioners are each businesses in Minnesota with ownership that were among the 648 applicants that were granted social equity status and determined by OCM to have demonstrated their right to participate in the preapproval lottery.

Petitioners expended significant money and time to develop their applications, ensure compliance with the statute, and to prepare their businesses. As social equity business owners, Petitioners face substantial barriers in accessing capital, land, and local permitting approvals—challenges that the legislature specifically sought to mitigate through the preapproval process. The indefinite delay in holding the preapproval lottery further deepens the inequities that the Legislature intended to address with the preapproval process.

The stay also exacerbates barriers to local government approvals. Local government approvals are a critical step in the cannabis licensing process, as nearly every jurisdiction in Minnesota imposes caps or restrictions on the number of businesses it will permit. Many jurisdictions also use a first-come, first-served approach for these permits. License preapproval provides petitioners with an opportunity to secure these limited local approvals by

demonstrating readiness and compliance, which aligns with statutory intent to prioritize operationally ready applicants. Delaying the lottery increases the risk that less-qualified or non-equity-focused businesses will occupy these limited slots.

The lack of clarity and delay affects position in the market because applicants are unable to act on opportunities that require definitive licensing. One petitioner shared that “delay of the lottery has dismissed the countless hours over the past year and a half I’ve put in to this project. Not to mention the work we’ve completed working with county and city officials, lobbying, and money invested has significantly impacted my life.” Another Petitioner has had multiple property deals fall through, and lost escrow money due to ever-changing timelines. Yet another Petitioner has had staffing, construction project crews, and city permits that were all timed to the lottery fall apart. All are now in perpetual limbo. These financial and logistical hurdles have disrupted timelines for hiring, facility preparation, and scaling efforts.

In addition, the Legislature recognized that the legalization of cannabis without a licensed marketplace created societal concerns, including specifically the inevitable expansion of illicit markets that carry an array of potential social harms. As such, the stay also disrupts the legislature’s goal of reducing reliance on illicit markets by delaying early cultivation, which is critical to ensuring a functioning supply chain when retail licenses are issued. Without

timely preapproval, the gap between legalization and market availability widens, creating opportunities for unregulated actors to dominate consumer access, undermining public safety, economic equity, and undermining public confidence in the program.

Moreover, by disrupting the lottery, the district court significantly changed the status quo. In favor of just a handful of denied applicants, the stay disrupted Minnesota policy as set by the Legislature, and prevented OCM from running a lottery that hundreds of Minnesota businesses with disadvantaged owners earnestly invested in. The cure was certainly worse than the alleged disease (a disease which, notably, remains unproven). *See* Eric Taubel Decl., Add. at 044–103.

STATEMENT OF THE ISSUES

Should this Court issue a writ of prohibition reversing the district court’s order issuing a stay because the district court acted without subject matter jurisdiction?

In the alternative, should the Court order full briefing on the writ?

STANDARD OF REVIEW

A writ of prohibition is an extraordinary remedy. Writs of prohibition are an important tool “to oversee the actions of lower courts in the rare instances in which a court . . . exercises judicial power that is unauthorized by law.” *Klapmeier v. Cirrus Indus, Inc.*, 900 N.W.2d 386, 392 (Minn. 2017). A writ of

prohibition is an important check on the improper exercise of judicial power and is warranted to prevent a district court from violating the doctrine of separation of powers. *See State v. Hart*, 723 N.W.2d 254, 261 n. 13 (Minn. 2006) (discussing the use of writs to avoid separation of powers problems).

To obtain a writ of prohibition, a petitioner must show three things: “(1) an inferior court or tribunal must be about to exercise judicial or quasi-judicial power; (2) the exercise of such power must be unauthorized by law; and (3) the exercise of such power must result in injury for which there is no adequate remedy.” *Minneapolis Star & Tribune Co. v. Schumacher*, 392 N.W.2d 197, 208 (Minn.1986) (quotation omitted). A writ of prohibition is available “to those cases where the lower court has exceeded its jurisdiction and no other adequate remedy exists.” *Id.*

ARGUMENT

The district court exceeded its jurisdiction when it issued a ruling that: (1) issued an order related to a quasi-judicial agency action; and (2) ignored the legal mandate that no judicial review was permitted as to this particular agency decision. Immediate review by writ of prohibition is required because Petitioners were not parties to the district court action and cannot appeal. *See In Re Program to Aid Victims of Sexual Assault*, 943 N.W.2d 673, 676 (Minn. App. 2020) (“PAVSA, a nonparty to the [district court] proceeding, does not have an ordinary remedy by appeal.”). Because the district court clearly erred

by issuing a stay without subject matter jurisdiction, this Court should issue a peremptory writ of prohibition. *See* Minn. R. App. P. 121.02(a).

I. THE DISTRICT COURT’S ORDER ISSUING A STAY WAS AN EXERCISE OF JUDICIAL POWER.

The district court’s November 25, 2024 Order issuing a stay was an exercise of judicial power. *Bellows v. Ericson*, 46 N.W.2d 654, 658 (Minn. 1951) (issuing a writ of prohibition to prevent a court from enforcing its order); *see Klapmeier*, 900 N.W.2d at 393 (concluding that order is an exercise of judicial power). Accordingly, the first requirement for a writ of prohibition is satisfied. *Minneapolis Star & Tribune Co.*, 392 N.W.2d at 208 (requiring that an inferior court be about to exercise judicial power for a writ of prohibition to issue).

II. THE DISTRICT COURT ACTED WITHOUT JURISDICTION WHEN IT ISSUED A STAY OF THE PREAPPROVAL LOTTERY.

The district court acted without subject matter jurisdiction, and so its stay was unauthorized by law. “Subject-matter jurisdiction refers to a court’s authority to hear and determine a particular class of actions and the particular questions presented to the court for its decision.” *Zweber v. Credit River Twp.*, 882 N.W.2d 605, 608 (Minn. 2016) (quotation omitted). If a district court does not have subject matter jurisdiction over a particular action, that action is void. *Carlson v. Chermak*, 639 N.W.2d 886, 889 (Minn. App. 2002); *Neitzel v. County of Redwood*, 521 N.W.2d 73, 76 (Minn. App. 1994) (vacating district court judgment because appellant failed to timely obtain a writ, which was only

available method to obtain judicial review), review denied (Minn. Oct. 27, 1994).

District courts lack subject matter jurisdiction to review agency decisions unless there is express statutory authority to the contrary. *See Williams v. Smith*, 820 N.W.2d 807, 813 (Minn. 2012); *City of Washington v. City of Oak Park Heights*, 818 N.W.2d 533, 538 (Minn. 2012); *Anzures v. Ward*, 890 N.W.2d 127, 130 (Minn. Ct. App. 2017); *Lam v. City of Saint Paul*, 714 N.W.2d 740, 743 (Minn. Ct. App. 2006). This rule is grounded in considerations of separations of power and agency deference.⁹ *Id.* When agencies act in their quasi-judicial capacity, courts afford deference to the agency’s process “to avoid usurpation of the executive body’s administrative prerogatives.” *Anderson v. City of Lyon*, 784 N.W.2d 77, 81 (Minn. App. 2010). An agency decision is quasi-judicial capacity if the decision involves: “(1) investigation into a disputed claim and weighing evidentiary facts; (2) application of those facts to a prescribed standard; and (3) a binding decision regarding the disputed claim.” *In re Jensen Field Relocation Claims Jensen Field, Inc.*, 817 N.W.2d 724, 728–28 (Minn.

⁹ The district court stated that it was “mindful of the separation of powers implications here,” but did not cite to any legal authority providing jurisdiction to intrude on the agency’s decision. A district court cannot circumvent lack of jurisdiction by acknowledging that it lacks jurisdiction. *Cf. Dead Lake Ass’n v. Otter Tail County*, 695 N.W.2d 129, 134 (Minn. 2005) (“[L]ack of subject matter jurisdiction may be raised at any time by the parties or sua sponte by the court, and cannot be waived by the parties.”).

App. 2012) (citations omitted). As OCM detailed to the district court, that is exactly what OCM did with applications for preapproval license. *Aranguiz & Connolly v. Minnesota Office of Cannabis Management*, Memorandum of Law - Motion to Dismiss at 4–5, Case No. 62-CV-24-7403 (Nov. 22, 2024). OCM reviewed Plaintiffs’ application materials, concluded that their applications failed to properly disclose ownership and control interests (as required by statute), and then denied their applications because they failed to comply with statutory requirements. *See id.*

OCM’s decisions denying applications for preapproval licenses were quasi-judicial decisions and no statutory authority was identified by any party or the court for review in the district court.

Furthermore, it is notable that there is no legal authority for judicial review by *any court*. In establishing the preapproval process, the Legislature expressly eliminated that right as it related to the preapproval application process: “Any applicant whose application is denied or not selected in a lottery **may not appeal or request a hearing.**” 2024 Minn. Law, sec. 148, Subd. 11(d) (emphasis added).

Either way, the district court lacked subject matter jurisdiction to consider challenges to OCM’s decisions. *See King v. Minn. Office of Cannabis Mgmt.*, Case No. 62-CV-24-4867, Docket No. 40 at 12–13 (Minn. Dist. Ct. Sept. 23, 2024) (J. Aligada). Accordingly, the district court lacked subject matter

jurisdiction to issue a stay, and Petitioners satisfy the second requirement for a writ of prohibition. *See Minneapolis Star & Tribune Co.*, 392 N.W.2d at 208 (requiring that the inferior court’s exercise of power be unauthorized by law for a writ of prohibition to issue).

III. PETITIONERS HAVE NO OTHER REMEDY.

Finally, as to the last requirement for a writ of prohibition—as non-parties to the district court case, Petitioners do not have an ordinary remedy by appeal. *See In Re Program to Aid Victims of Sexual Assault*, 943 N.W.2d at 676. Petitioners made significant investments of time and money to prepare applications for preapproval on the promise that they would have an early opportunity to secure preapproval status, which the Legislature enacted specifically to provide advantages in the licensing process, including positioning to secure local permits and to begin some operations sooner than general applicants. Petitioners began to prepare their business to “expedite the process of setting up a good, legitimate marketplace for cannabis to displace the illicit marketplace.” *See* Comments of Rep. Zack Stephenson (Author), House Debate on H.F. 4757 (Apr. 14, 2024). As legislators recognized, “a temporary early license will give the opportunity for these license holders that is critical in preparing their business; including securing capital and gaining the local approvals that they need to operate where they choose.” Comments of Charlene Briner, House Hearing on H.F. 4757 (Mar. 22, 2024).

Instead, Petitioners have lost capital and opportunities to engage with local governments because of uncertainties in the licensing process.

Petitioners invested in and relied on the acts of the Legislature and OCM in creating a preapproval process. Continued delay in holding the preapproval lottery delays development of a legal market for cannabis, delays realization of their investments, and injects additional uncertainty in the process of securing necessary capital and local approvals necessary for operation. Petitioners are prepared to start their cannabis businesses and will suffer irreparable harm if the preapproval lottery does not proceed as required. *See State v. Turner*, 550 N.W.2d 622, 626 (Minn. 1996) (“[T]his court has issued a writ of prohibition to correct an error of law in the lower court where no other adequate remedy is available to the petitioner and enforcement of the trial court’s order would result in irreparable harm”).

IV. THE COURT SHOULD GRANT THE WRIT OUTRIGHT, OR, IN THE ALTERNATIVE, ORDER FULL BRIEFING AND ARGUMENT.

This case is not a close call. The district court recognized that it lacked subject matter jurisdiction, but then—despite recognizing it lacked authority to act—issued a stay. The district court clearly erred, and the court should issue a preemptory writ and reverse the stay outright. Minn. R. App. P. 120.03(a); *Smith v. Tuman*, 114 N.W.2d 73, 77–78 (Minn. 1962) (issuing writ of prohibition when justice of the peace issued an order without jurisdiction);

Humphrey v. Shumaker, 524 N.W.2d 303, 308 (Minn. App. 1994) (grating writ of prohibition because district court did not have authority to appoint the Attorney General to represent an indigent plaintiff); *Clark v. Clark*, 543 N.W.2d 685, 688 (Minn. App. 1996) (issuing emergency writ of prohibition because district court abused its discretion in denying a stay pending resolution of remaining custody issues); *Bellows*, 46 N.W.2d at 658 (“A writ of prohibition . . . is used to prevent or restrain the usurpation by inferior tribunals or by judicial officers of powers which they do not have and to compel them to observe the limits of their jurisdiction.”).

In the alternative, if the Court has questions that warrant full briefing, it should “grant temporary relief and direct the filing of briefs.” Rule 120.03(b); see *In re Truscott*, 2015 WL 13855281, at *2 (Minn. App. Nov. 25, 2015) (following this procedure).

CONCLUSION

For the foregoing reasons, the Court should grant a peremptory writ reversing the district court’s stay, which was issued without subject matter jurisdiction.

WHEREFORE, the petitioner requests an order granting the petition for a writ of prohibition and the issuance of the writ.

Dated: December 11, 2024

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