

FILED

March 11, 2024

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

A22-0611

State of Minnesota,

Appellant,

vs.

Stephanie Louise Clark,

Respondent.

O R D E R

In 2021, respondent Stephanie Louise Clark was convicted of second-degree intentional murder for killing her partner. Clark appealed, arguing that one of the district court’s jury instructions constituted reversible error. Specifically, in response to a question from the jury during deliberations, the district court instructed the jury that, for purposes of Minnesota’s self-defense law, fear of “imminent” harm means fear of “immediate” harm. The court of appeals agreed with Clark that the instruction was erroneous and reversed, resulting in a remand for a new trial. *State v. Clark*, No. A22-0611, 2023 WL 2637490, at *1 (Minn. App. Mar. 27, 2023). The State petitioned this court for review, presenting the issue of whether “the trial court materially and prejudicially abuse[d] its discretion by supplementally instructing the jury, in response to its request for a definition of ‘imminent’

from the justifiable-taking-of-life instruction, that ‘[t]o fear imminent great bodily harm or death means that the person must fear that such harm will occur immediately.’ ” We granted review.

In its brief to this court, the State no longer argues that the district court properly exercised its discretion in its instruction to the jury. In other words, as to the jury-instruction issue on which we granted review, this appeal has lost its adversarial posture. The issue—on which we express no opinion at this time—is important, which is precisely why we need contestation to properly decide it. Because the question of law raised in the petition for review is no longer contested and any remaining issues fail to satisfy the review criteria of Minn. R. Crim. P. 29.04, we conclude that dismissal of the appeal as improvidently granted is appropriate.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the June 28, 2023 order of this court granting review of the March 27, 2023 decision of the court of appeals is vacated as improvidently granted and the appeal is dismissed.

Dated: March 11, 2024

BY THE COURT:



Natalie E. Hudson
Chief Justice