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DISTRICT III

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**CLERK OF WISCONSIN
COURT OF APPEALS**

July 20, 2021

To:

Hon. James A. Morrison
Circuit Court Judge
Electronic Notice

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District Attorney
Electronic Notice

Sheila Dudka
Marinette County Clerk of Circuit Court
Electronic Notice

Richard Zoellner
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Lisa E.F. Kumfer
Assistant Attorney General
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2021AP716-CRLV

State of Wisconsin v. Raymand Vannieuwenhoven
(L.C. # 2019CF49)

Before Stark, P.J., Hruz and Seidl, JJ.

Raymand Vannieuwenhoven petitions for leave to appeal a pretrial ruling denying his motion to introduce evidence that a third party, Mervin Walker, committed the rape and homicides with which he is charged. *See State v. Denny*, 120 Wis. 2d 614, 357 N.W.2d 12 (Ct. App. 1994). The State opposes the petition.

Interlocutory review is disfavored in this state, particularly in criminal cases. *State v. Borowski*, 164 Wis. 2d 730, 735, 476 N.W.2d 316 (Ct. App. 1991). While we have discretion to review an order not appealable as of right when an appeal would materially advance the termination of the litigation or clarify further proceedings, protect the petitioner from substantial or irreparable injury, or clarify an issue of general importance in the administration of justice, we

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will not grant leave to appeal absent compelling circumstances. See WIS. STAT. § 808.03(2) (2019-20); *Cascade Mountain, Inc. v. Capitol Indem. Corp.*, 212 Wis. 2d 265, 268 and n.2, 569 N.W.2d 45 (Ct. App. 1997). This policy “is designed to protect pretrial and trial court proceedings from the interruptions and delays caused by multiple appeals, and to limit each case to a single appeal” under ordinary circumstances. *Id.* at 268. The petitioner must demonstrate both that there is a substantial likelihood of success on appeal, and that the necessity of immediate review outweighs our general policy against the piecemeal disposition of litigation. *Id.* at 268 n.2; *State v. Salmon*, 163 Wis. 2d 369, 374-75, 471 N.W.2d 286 (Ct. App. 1991).

Having considered the arguments of both the petitioner and the respondent, we conclude there are no sufficiently compelling reasons to warrant interlocutory review in this case. The evidentiary issue posed is fact specific rather than an issue of general importance in the administration of justice. The issue is subject to the discretionary standard of review, limiting the likelihood of success on appeal, and it would be fully preserved following trial.

Therefore,

IT IS ORDERED that the petition for leave to appeal is denied.

Sheila T. Reiff
Clerk of Court of Appeals