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**DISTRICT III**

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January 10, 2022

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

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2022AP38-LV

American Oversight v. Robin Vos (L.C. # 2021CV2521)

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

Wisconsin State Assembly Speaker Robin Vos moves for temporary ex parte relief pending the disposition of his petition for leave to appeal a circuit court oral ruling that denied his request for a protective discovery order. *See* WIS. STAT. § 809.52. Vos asserts that he is entitled to a stay based upon the factors that apply to requests for relief pending appeal—namely, that: (1) the moving party is likely to succeed on the merits; (2) the moving party will suffer irreparable harm if the stay is not granted; (3) no substantial harm will come to the other interested parties if the stay is granted; and (4) the stay would not harm the public interest. *See State v. Gudenschwager*, 191 Wis. 2d 431, 440, 529 N.W.2d 225 (1995) (citations omitted).

Respondent American Oversight objects to the requested temporary stay on several grounds. Among other things, it notes that: (1) the order Vos seeks to appeal has not been reduced to writing; (2) Vos failed to provide this court with a transcript of the circuit court's oral ruling, or to address the reasons the circuit court gave for refusing to issue a protective order; (3) Vos failed to identify in his motion any discovery actions or deadlines scheduled to occur prior to American Oversight's time to respond to the pending petition for leave to appeal; and (4) Vos has filed a parallel motion in the circuit court seeking a stay.

We agree with the respondent that the motion for temporary ex parte relief is deficient on its face, and it fails to provide an adequate basis for a stay. First, a party cannot appeal an oral ruling. *See State v. Powell*, 70 Wis. 2d 220, 222, 234 N.W.2d 345 (1975). Second, without a transcript or any developed arguments regarding how the circuit court's decision represented an erroneous exercise of discretion, we have no basis to conclude that Vos has a likelihood of success on appeal. *See Streff v. Town of Delafield*, 190 Wis. 2d 348, 353 n.2, 525N.W.2d 822 (Ct. App. 1994) (stating that we will assume an absent transcript supports the circuit court's ruling). Third, Vos has not identified in his motion any specific harm that he will face while the petition for leave to appeal is pending. And finally, given that this court reviews circuit court decisions on stays under the discretionary standard of review, we will not consider the stay request while a stay motion is currently pending in the circuit court.

Upon the foregoing,

IT IS ORDERED that the petitioner's motion for a temporary ex parte stay is denied.

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*Sheila T. Reiff*  
Clerk of Court of Appeals