

Court of Appeals, Division One

Criminal

1 CA-CR 21-0512

STATE v. DESHAW

Appellate Case Information

Case Filed: 17-Nov-2021

Case Closed: 14-Apr-2022

Reinstated x 1: 3-May-2023 Dismissal

Re-Closed:

Dept/Composition

Department A

Hon. Angela K Paton
Hon. Michael S Catlett
Hon. James B Morse

Consolidated with: 1 CA-CR 21-0541 1 CA-CR 22-0061 1 CA-CR 22-0071

Side 1. STATE OF ARIZONA, Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellee

Eliza Ybarra, Esq. (AZ Bar No. 22395)

Side 2. SCOTT LEE DESHAW, Appellant

(Litigant Group) SCOTT LEE DESHAW

- Scott Lee Deshaw

Attorneys for: Appellant Deshaw

Mikel Steinfeld, Esq. (AZ Bar No. 24996)

(Litigant Group) BOBBY CHARLES PURCELL (1 CA-CR 21-0541)

- Bobby Charles Purcell

Attorneys for: Appellant Purcell

Tara R DeGeorge, Esq. (AZ Bar No. 31580)

Mikel Steinfeld, Esq. (AZ Bar No. 24996)

(Litigant Group) BOBBY JERRY TATUM (1 CA-CR 22-0061)

- Bobby Jerry Tatum

Attorneys for: Appellant Tatum

Stephen L Duncan, Esq. (AZ Bar No. 14403)

(Litigant Group) WILLIAM FRANKLIN NAJAR (1 CA-CR 22-0071)

- William Franklin Najar

Attorneys for: Appellant Najar

Kaitlin DiMaggio, Esq. (AZ Bar No. 36178)

Matthew O Brown, Esq. (AZ Bar No. 25213)

Side 3. MARICOPA COUNTY ATTORNEY'S OFFICE, Amicus Curiae

(Litigant Group) MARICOPA COUNTY ATTORNEY'S OFFICE

- Maricopa County Attorney's Office

Attorneys for: Amicus Curiae

Julie A Done, Esq. (AZ Bar No. 24370)

Mitchell S Eisenberg, Esq. (AZ Bar No. 10224)

Kirsten Valenzuela, Esq. (AZ Bar No. 21369)

Christopher Sammons, Esq. (AZ Bar No. 24077)

Jennifer Nicole Carper, Esq. (AZ Bar No. 25535)

CASE STATUS

Aug 27, 2024....Pending in ASC

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR1994-011396	See ME dated 11/01/2021		Patricia A Starr, Authoring Judge of Order	JURY	

DESCENDENT CASE(S)	
ASC CR-21-0400-PR	
ASC CR-24-0175-PR	

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2 CASE DECISIONS

07-Dec-2021 ORDER



Vacated

* ORDERED: Motion for Confirmation of Appellate Jurisdiction / Or, Alternatively, Petition for Special Action (Appellant) = DISMISSED. FURTHER ORDERED: Denying the motion to treat this appeal as a special action proceeding. This order is without prejudice

Filed: 07-Dec-2021

Mandate:

Decision Disposition

Dismissed

Benjamin Armstrong.....Author

25-Jun-2024 MEMORANDUM DECISION

James Morse.....Author

Angela Paton.....Concur

Michael Catlett.....Concur

Filed: 25-Jun-2024

Mandate:

Decision Disposition

Affirmed

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)

- 1 CA-CR 21-0541 STATE v. PURCELL
- 1 CA-CR 22-0061 STATE v. TATUM
- 1 CA-CR 22-0071 STATE v. NAJAR

62 PROCEEDING ENTRIES

- 17-Nov-2021 FILED: Notice of Appeal from Maricopa County Superior Court filed 11/05/21. Notification sent to Court Reporters dated 11/16/2021.
- 23-Nov-2021 FILED: Motion for Confirmation of Appellate Jurisdiction / Or, Alternatively, Petition for Special Action; Certificate of Service (Appellant)
- 7-Dec-2021 ORDERED: Motion for Confirmation of Appellate Jurisdiction / Or, Alternatively, Petition for Special Action (Appellant) = DISMISSED. FURTHER ORDERED: Denying the motion to treat this appeal as a special action proceeding. This order is without prejudice to appellant filing a complaint for special action relief pursuant to the Arizona Rules of Procedure for Special Actions. Benjamin A Armstrong ProTem Judge - Author
- 9-Dec-2021 FILED: Motion for Reconsideration: Order Dismissing Appeal of Dismissal of Resentencing; Certificate of Compliance with Rule 31.20(e), ARCP; Certificate of Service (Appellant)
- 9-Dec-2021 FILED: Notice of Appearance; Certificate of Service (Appellant)
- 9-Dec-2021 FILED: Motion to Delete Pre-Remand Transcripts from the Record on Appeal; Certificate of Service (Appellant)
- 14-Dec-2021 ORDERED: Motion for Reconsideration: Order Dismissing Appeal of Dismissal of Resentencing (Appellant) = DENIED. FURTHER ORDERED: Denying the request for oral argument. Hon Kent E Cattani - Author
- 14-Dec-2021 ORDERED: Motion to Delete Pre-Remand Transcripts from the Record on Appeal (Appellant) = DENIED. Benjamin A Armstrong ProTem Judge - Author
- 27-Dec-2021 FILED: Email Notice from ASC re: Petition for Review filed 12/22/21; request for partial record
- 27-Dec-2021 FILED: Letter forwarding partial record to Arizona Supreme Court
- 6-Apr-2022 FILED: Letter from ASC, 04/06/2022, re: Petition for Review GRANTED on 04/05/2022.
- 11-Apr-2022 FILED: ASC Order filed 04/11/2022 re: that the above-captioned cases are consolidated. FURTHER ORDERED: Amending the caption as reflected above. This caption shall be used on all further documents filed in this appeal. FURTHER ORDERED: That the primary case number is designated as CR-21-0398, State of Arizona v. Bobby Charles Purcell. FURTHER ORDERED: That counsel for the State of Arizona and counsel for Petitioner Purcell and Appellant DeShaw may each simultaneously file a single supplemental brief addressing the single issue of whether the Court of Appeals erred by concluding that it did not have appellate jurisdiction over the dismissal of the resentencing proceedings. Any amicus briefs are due on or before 05/09/2022, and any responses to amicus briefs are due on or before 05/31/2022. Amicus briefs or responses may not exceed 20 pages in length. FURTHER ORDERED: That these matters will be set for a single oral argument.
- 14-Apr-2022 FILED: Letter, 04/14/2022, the entire file is transferred to Arizona Supreme court.

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62 PROCEEDING ENTRIES

- 14. 1-May-2023 FILED: Arizona Supreme Court Mandate to Court of Appeals, Division One - COA1 Dismissal Order Vacated - Remanded to COA1
- 15. 3-May-2023 ORDERED: Reinstating this appeal. Hon Jennifer M Perkins - Author
- 16. 9-May-2023 ORDERED: Clerk of Maricopa County Superior Court to transmit record on appeal, including but not limited to reporter's transcripts and exhibits, to clerk, Court of Appeals, on/before 06/22/2023. Benjamin A Armstrong ProTem Judge - Author
- 17. 9-May-2023 ORDERED: Court Reporter Scott Kindle transcript of 09/09/2021 due by 06/22/2023. Benjamin A Armstrong ProTem Judge - Author
- 18. 7-Jun-2023 FILED: Notice of Appearance; Certificate of Service (Appellee)
- 19. 12-Jun-2023 FILED: Notice of Concession of Error; Certificate of Service (Appellee)
- 20. 14-Jun-2023 FILED: Amicus Curiae Brief Of The Maricopa County Attorney's Office; Certificate Of Compliance For Amicus Curiae Brief Of The Maricopa County Attorney's Office; Certificate Of Service For Amicus Curiae Brief Of The Maricopa County Attorney's Office (Amicus Curiae)
- 21. 21-Jun-2023 FILED: Reporter's Transcript - 09/09/2021 - Oral Argument (Scott Kindle)
- 22. 21-Jun-2023 ORDERED: Consolidating cases 1 CA-CR 21-0512, 1 CA-CR 21-0541, 1 CA-CR 22-0061, and 1 CA-CR 22-0071. Case no. 1 CA-CR 21-0512 is designated the primary number, and the caption shown above must be used on all future documents filed in this appeal. FURTHER ORDERED: Directing the clerk of this court to issue a Notice of Completion for this consolidated case once the record is fully complete in all member cases. FURTHER ORDERED: The deadline to file a response to the Maricopa County Attorney's Office's amicus brief will be the same date as the opening brief deadline set in the Notice of Completion. FURTHER ORDERED: Notice of Concession of Error (Appellee) = TAKING NO ACTION. Nothing precludes the State from filing a new Concession of Error after the opening briefs are filed. Hon Kent E Cattani - Author
- 23. 22-Jun-2023 FILED: e-Record on Appeal: A – Index of Record: CR1994-011396
Instruments/Minute Entries: Combined
Disposition Report: 266 267
Exhibits: None sent with e-Record
(Includes transcript(s) dated 08/31/1994, 02/09/1996, 03/08/1996, 04/05/1996, 12/11/1996, 12/16/1996, 12/13/1996, 12/17/1996, 09/05/1997, 08/28/1997, 12/04/1996, 12/10/1996, 12/05/1996, 02/28/1997, 12/03/1996, 12/12/1996, 12/09/1996)
- 24. 22-Jun-2023 FILED: Additional Record on Appeal
Physical Exhibits:
Hearing Date: 02/09/1996 List # 1 2 3 4 5 6 7 in manila envelope
Hearing Date: 10/28/1996 List # 187 188 190 194 195 in manila envelope
Hearing Date: 12/02/1996 List # 8.001 11 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 185 186 187 188 189 190 191 192 in manila envelope
Hearing Date: 07/11/1997 List # 2 3 4 5 6 7 8 9 10 11 in manila envelope
Hearing Date: 08/29/1997 List # 1 2 in a box
- 25. 22-Jun-2023 FILED: e-Record on Appeal: B – Index of Record: CR1994-011397
Instruments/Minute Entries: Combined
Disposition Report: None
Exhibits: None sent with e-Record
- 26. 22-Jun-2023 FILED: e-Record on Appeal: C – Index of Record: CR1994-092638
Instruments/Minute Entries: Combined
Disposition Report: None
Exhibits: None sent with e-Record
- 27. 10-Jul-2023 FILED: Notice of Completion of Record
- 28. 24-Jul-2023 FILED: Request for Procedural Order: Motion to Supplement Record - And - Request to Extend Time to File the Opening Brief Until the Record is Supplemented; Certificate of Service (Appellant)
- 29. 24-Jul-2023 FILED: Request for Procedural Order: Motion to Supplement Record - And - Request to Extend Time to File the Opening Brief Until the Record is Supplemented (Second Request); Certificate of Service (Appellant)

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30. 1-Aug-2023 ORDERED: Motion to Supplement Record (Appellant) = GRANTED and directing court reporter supervisor Vanessa Gartner to prepare transcript dated 06/11/2019 for the hearing at which Celeste Paxton-Jones was the court reporter designated above due 09/15/2023. FURTHER ORDERED: Ken Crenshaw Transcript for digitally recorded hearing on 08/09/2019, due 09/15/2023. FURTHER ORDERED: Directing court reporters Marylynn LeMoine, Wanda Bauer, and Gail Ferguson Transcripts dated 07/12/2019, 06/02/2021, 10/12/2018, due 09/15/2023 (See Order). FURTHER ORDERED: Motion to Supplement Record (Second Request) = GRANTED. FURTHER ORDERED: Request to Extend Time to File the Opening Brief Until the Record is Supplemented = GRANTED. Due date EXTENDED from Thursday, 08-24-2023 to Monday, 10-16-2023. Geoffrey P Butzine ProTem Judge - Author
31. 9-Aug-2023 FILED: The State's Response to Brief of Amicus Curiae; Certificate of Compliance; Certificate of Service (Appellee)
32. 24-Aug-2023 FILED: Joint Response to MCAO Amicus Brief; Certificate of Compliance; Certificate of Service (Appellant)
33. 5-Sep-2023 FILED: Reporter's Transcript - 06/02/2021 - Reporter's Transcript of Proceedings - (Wanda Bauer)
34. 10-Sep-2023 FILED: Reporter's Transcript - 06/11/2019 - Status Conference - (Terry Masciola)
35. 15-Sep-2023 FILED: Reporter's Transcript - 07/12/2019 - Oral Argument - (Marylynn LeMoine Cotton)
36. 28-Sep-2023 FILED: Notice of Supplemental Authority; Certificate of Service for Notice of Supplemental Authority (Amicus Curiae)
37. 29-Sep-2023 FILED: Reporter's Transcript - 08/09/2019 - Status Conference (Brian Gemma)
38. 5-Oct-2023 ORDERED: Court Reporter Gail Ferguson transcript dated 10/12/2018 due or OSC set on 10/18/2023. Hon Randall M Howe - Author
39. 12-Oct-2023 FILED: Motion to Extend Time to File the Opening Brief; Certificate of Service (Appellant)
40. 16-Oct-2023 ORDERED: Motion to Extend Time to File the Opening Brief (Appellant) = GRANTED. Due date EXTENDED from 10/16/2023 to 11/15/2023 for Appellant's Opening Brief, Geoffrey P Butzine ProTem Judge - Author
41. 18-Oct-2023 ORDERED: Directing Court Reporting Supervisor Chris Bleuenstein to reassign the preparation of the transcripts designated above from Court Reporter Gail Ferguson to an available court reporter, and to furnish one copy to appellant's counsel, one copy to appellee's counsel, and the original to the clerk of this court by 12/04/2023, marked for filing in this appeal. FURTHER ORDERED: Extending the time to file the Opening Brief from 11/15/2023, to 01/03/2024. FURTHER ORDERED: Directing Court Reporting Supervisor Chris Bleuenstein to notify the Court of Appeals Clerk's Office of the court reporter assigned to prepare the above-listed transcripts. Hon Randall M Howe - Author
42. 13-Nov-2023 FILED: Reporter's Transcript - 10/12/2018 - Oral Argument - (Catherine Turner on behalf of Gail Ferguson)
43. 3-Jan-2024 FILED: Appellant's Joint Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
44. 5-Jan-2024 FILED: Notice of Supplemental Authority; Certificate of Service for Notice of Supplemental Authority (Amicus Curiae)
45. 10-Jan-2024 FILED: Notice of Supplemental Authority; Certificate of Service for Notice of Supplemental Authority (Amicus Curiae)
46. 30-Jan-2024 FILED: Unopposed Motion for Procedural Order (Extension for Answering Brief); Certificate of Service (Appellee)
47. 31-Jan-2024 ORDERED: Unopposed Motion for Procedural Order (Extension for Answering Brief) (Appellee) = GRANTED. Due date EXTENDED from Monday, 02-12-2024 to Wednesday, 03-13-2024. Geoffrey P Butzine ProTem Judge - Author
48. 12-Mar-2024 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
49. 26-Mar-2024 FILED: Unopposed Motion for Procedural Order: Extend Reply Brief Deadline; Certificate of Service (Appellant Deshaw & Purcell)
50. 26-Mar-2024 ORDERED: Unopposed Motion for Procedural Order: Extend Reply Brief Deadline (Appellant Deshaw & Purcell) = GRANTED. Due date EXTENDED from Monday, 04-01-2024 to Monday, 04-22-2024. Geoffrey P Butzine ProTem Judge - Author
51. 29-Mar-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
52. 15-Apr-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record (CR1994-011396)
53. 19-Apr-2024 FILED: Appellants' Joint Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
54. 26-Apr-2024 CLNDR: CONFERENCE, Department A, 5-28-24, CONFERENCE ROOM.
55. 22-May-2024 FILED: Notice of Supplemental Authority; Certificate of Service for Notice of Supplemental Authority (Amicus Curiae)
56. 3-Jun-2024 FILED: Supplement to September 28, 2023, and January 10, 2024, Notices of Supplemental Authority Re: Wagner and Arias; Certificate of Service for Supplement To Notices of Supplemental Authority (Amicus Curiae)

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- 57. 25-Jun-2024 MEMORANDUM DECISION (Affirmed) Hon James B Morse Jr. - Author; Hon Angela K Paton - Concur; Hon Michael S Catlett - Concur
- 58. 25-Jun-2024 FILED: Decision Distribution Notification
- 59. 19-Jul-2024 FILED: ASC Order filed 07/19/2024 re: extending time for filing Petition for Review to 08/26/2024; matter subject to dismissal if the petition for review is not filed by 08/26/2024.
- 60. 27-Aug-2024 FILED: Email Notice from ASC re: Petition for Review filed 08/26/2024; request for partial record
- 61. 29-Aug-2024 FILED: Letter forwarding partial record to Arizona Supreme Court
- 62. 3-Sep-2024 FILED: Amended Letter forwarding partial record to Arizona Supreme Court