

Court of Appeals, Division One

Criminal

1 CA-CR 22-0061

STATE v. TATUM

Appellate Case Information

Case Filed: 9-Feb-2022
Case Closed:

Dept/Composition

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

Consolidated with: 1 CA-CR 21-0512 1 CA-CR 21-0541 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. BOBBY JERRY TATUM, Appellant

(Litigant Group) BOBBY JERRY TATUM

- Bobby Jerry Tatum

Attorneys for: Appellant

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

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

CASE STATUS

Aug 27, 2024....Pending in ASC

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Rows include MAR 1994-005821 and MAR 1998-005821.

Table with 2 columns: DESCENDENT CASE(S), Cause/Charge/Class. Rows include ASC 22-0104-PR and ASC 24-0175-PR.

2 CASE DECISIONS

09-Feb-2022 ORDER

Vacated
Vacated by ASC 04/04/2023
ORDERED: Dismissing this appeal.

Filed: 09-Feb-2022 Mandate:

Table with 1 column: Decision Disposition. Row: Dismissed

Benjamin Armstrong.....Author

25-Jun-2024 MEMORANDUM DECISION

James Morse.....Author
Angela Paton.....Concur
Michael Catlett.....Concur

Filed: 25-Jun-2024 Mandate:

Table with 1 column: Decision Disposition. Row: Affirmed

DECISION APPLIES TO THE FOLLOWING OTHER CASE(S)

- 1 CA-CR 21-0512 STATE v. DESHAW
1 CA-CR 21-0541 STATE v. PURCELL
1 CA-CR 22-0071 STATE v. NAJAR

Court of Appeals, Division One**Criminal****1 CA-CR 22-0061****STATE v. TATUM****59 PROCEEDING ENTRIES**

1. 9-Feb-2022 FILED: Notice of Appeal from Maricopa County Superior Court filed 02/04/22. Notification sent to Court Reporters dated 02/08/2022.
2. 9-Feb-2022 ORDERED: Dismissing this appeal. Benjamin A Armstrong ProTem Judge - Author
3. 24-Feb-2022 FILED: Motion for Extension of Time to File Motion for Reconsideration; Certificate of Service (Appellant)
4. 25-Feb-2022 ORDERED: Motion for Extension of Time to File Motion for Reconsideration (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 03-01-2022 to Wednesday, 03-16-2022. Benjamin A Armstrong ProTem Judge - Author
5. 15-Mar-2022 FILED: Motion for Extension of Time to File Motion for Reconsideration; Certificate of Service (Appellant)
6. 16-Mar-2022 ORDERED: Motion for Extension of Time to File Motion for Reconsideration (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 03-16-2022 to Thursday, 03-31-2022. Benjamin A Armstrong ProTem Judge - Author
7. 31-Mar-2022 FILED: Motion for Reconsideration; Certificate of Service (Appellant)
8. 31-Mar-2022 FILED: Appendix A (Appellant)
9. 7-Apr-2022 ORDERED: Motion for Reconsideration (Appellant) = DENIED. Hon Kent E Cattani - Author
10. 22-Apr-2022 FILED: ASC Order filed 04/22/2022 re: the motion (motion for extension of time to file Petition for Review) is denied without prejudice to appellant's ability to file a motion in compliance with Arizona Rules of Crim. Proc. Rule 31.6(e). This matter is subject to dismissal if a compliant motion or petition for review is not filed by 04/29/2022.
11. 2-May-2022 FILED: ASC Order filed 05/02/2022 re: Extending time for filing Petition for Review to 06/24/2022.
12. 1-Jun-2022 FILED: Email Notice from ASC re: Petition for Review filed 5/31/22; request for partial record
13. 1-Jun-2022 FILED: Letter forwarding partial record to Arizona Supreme Court
14. 12-Oct-2022 FILED: Letter from ASC, 10/12/2022, re: Petition for Review CONTINUED on 10/12/2022.
15. 7-Dec-2022 FILED: Letter from ASC, 12/07/2022, re: Petition for Review CONTINUED on 12/06/2022.
16. 5-Apr-2023 FILED: Letter from ASC, 04/05/2023, re: Petition for Review GRANTED on 04/04/2023. FURTHER ORDERED: Remanding to the court of appeals for reconsideration in light of this Court's Opinion filed 04/03/2023, in State v. Purcell, No. CR-21-0398-PR, and State v. DeShaw, No. CR-21-0400-PR (Consolidated).
17. 13-Apr-2023 ORDERED: Granting appellant's 03/31/2022 motion for reconsideration and reinstating this appeal. Hon Cynthia J Bailey - Author
18. 14-Apr-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 05/30/2023. Amy M Wood - Author
19. 1-May-2023 FILED: Arizona Supreme Court Mandate to COA1 - COA1 Dismissal Order Vacated - Remanded to COA1
20. 26-May-2023 FILED: e-Record on Appeal:
Instruments/Minute Entries: Combined
Disposition Report: 707
Exhibits: None sent with e-Record
(Includes transcript dated 06/28/1994, 06/30/1994, 11/18/1994, 07/17/1996, 08/28/1996, 08/29/1996, 08/30/1996, 04/19/1996, 03/01/1996, 03/15/1996, 07/17/1996, 08/19/1996, 09/03/1996, 09/04/1996, 09/05/1996, 10/28/1996, 08/21/1996, 08/22/1996, 08/20/1996, 12/13/1996, 12/06/1996, 06/17/1996, 06/18/1996, 06/19/1996, 06/20/1996, 06/24/1996, 11/15/1996, 11/20/1996, 05/15/1996, 05/16/1996, 05/20/1996, 06/11/1996, 06/12/1996, 06/13/1996, 05/07/1996, 05/06/1996, 05/02/1996, 04/19/1996, 03/19/1996, 03/01/1996, 05/14/1996, 05/13/1996, 05/10/1996, 05/09/1996, 05/08/1996, 06/10/1996, 06/04/1996, 06/03/1996, 05/30/1996, 05/29/1996, 05/28/1996, 05/21/1996, 05/22/1996, 05/23/1996, 05/24/1996, 11/18/1994, 01/06/1995, 02/02/1995, 03/15/1995, 04/05/1995, 05/29/1996, 04/19/2001, 04/25/2001, 05/25/2001)
21. 6-Jun-2023 FILED: Notice of Appearance; Certificate of Service (Appellee)
22. 12-Jun-2023 FILED: Notice of Concession of Error; Certificate of Service (Appellee)
23. 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)

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24. 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
25. 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
26. 10-Jul-2023 FILED: Notice of Completion of Record
27. 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)
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 (Second Request); Certificate of Service (Appellant)
29. 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
30. 9-Aug-2023 FILED: The State's Response to Brief of Amicus Curiae; Certificate of Compliance; Certificate of Service (Appellee)
31. 24-Aug-2023 FILED: Joint Response to MCAO Amicus Brief; Certificate of Compliance; Certificate of Service (Appellant)
32. 5-Sep-2023 FILED: Reporter's Transcript - 06/02/2021 - Reporter's Transcript of Proceedings - (Wanda Bauer)
33. 10-Sep-2023 FILED: Reporter's Transcript - 06/11/2019 - Status Conference - (Terry Masciola)
34. 15-Sep-2023 FILED: Reporter's Transcript - 07/12/2019 - Oral Argument - (Marylynn LeMoine Cotton)
35. 28-Sep-2023 FILED: Notice of Supplemental Authority; Certificate of Service for Notice of Supplemental Authority (Amicus Curiae)
36. 29-Sep-2023 FILED: Reporter's Transcript - 08/09/2019 - Status Conference (Brian Gemma)
37. 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
38. 12-Oct-2023 FILED: Motion to Extend Time to File the Opening Brief; Certificate of Service (Appellant)
39. 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
40. 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
41. 13-Nov-2023 FILED: Reporter's Transcript - 10/12/2018 - Oral Argument - (Catherine Turner on behalf of Gail Ferguson)
42. 3-Jan-2024 FILED: Appellant's Joint Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)

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43. 30-Jan-2024 FILED: Unopposed Motion for Procedural Order (Extension for Answering Brief); Certificate of Service (Appellee)
44. 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
45. 12-Mar-2024 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
46. 26-Mar-2024 FILED: Unopposed Motion for Procedural Order: Extend Reply Brief Deadline; Certificate of Service (Appellant Deshaw & Purcell)
47. 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
48. 29-Mar-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
49. 15-Apr-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record (CR1994-011396)
50. 19-Apr-2024 FILED: Appellants' Joint Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
51. 26-Apr-2024 CLNDR: CONFERENCE, Department A, 5-28-24, CONFERENCE ROOM.
52. 22-May-2024 FILED: Notice of Supplemental Authority; Certificate of Service for Notice of Supplemental Authority (Amicus Curiae)
53. 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)
54. 25-Jun-2024 MEMORANDUM DECISION (Affirmed) Hon James B Morse Jr. - Author; Hon Angela K Paton - Concur; Hon Michael S Catlett - Concur
55. 25-Jun-2024 FILED: Decision Distribution Notification
56. 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.
57. 27-Aug-2024 FILED: Email Notice from ASC re: Petition for Review filed 08/26/2024; request for partial record
58. 29-Aug-2024 FILED: Letter forwarding partial record to Arizona Supreme Court
59. 3-Sep-2024 FILED: Amended Letter forwarding partial record to Arizona Supreme Court