

Court of Appeals, Division One

Criminal - Anders Appeal

1 CA-CR 22-0268

STATE v. PEREZ-GUTIERREZ

Appellate Case Information

Case Filed: 15-Jun-2022

Case Closed: 9-Jan-2024

Reinstated x 1: 18-Jun-2024 Decision

Re-Closed:

Dept/Composition

Department D

Hon. Paul J McMurdie

Hon. Michael J Brown

Hon. Michael S Catlett

Side 1. STATE OF ARIZONA, Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellee

Alice Jones, Esq. (AZ Bar No. 28062)

Side 2. MANUEL DAVID PEREZ-GUTIERREZ, Appellant

(Litigant Group) MANUEL DAVID PEREZ-GUTIERREZ

- Manuel David Perez-Gutierrez

Attorneys for: Appellant

Aaron J Moskowitz, Esq. (AZ Bar No. 22246)

CASE STATUS

Jun 18, 2024....Under Advisement

Table with 6 columns: PREDECESSOR CASE (S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CR2020-135003-001, See File, See File, Geoffrey H Fish, Sentencing, JURY, Dispo.

DESCENDENT CASE (S)

ASC CR-23-0137-PR

OPEN DUE DATE

Anders Supplemental Brief Due

Due By: Wednesday, September 18, 2024

Re: * ORDERED: Allowing appellant to file supplemental brief in propria persona. FURTHER ORDERED: Counsel to send copy of record to appellant, and copy of transmittal letter to Clerk/AG. FURTHER ORDERED: Appellant may raise additional points on/before 09/1

CASE DECISION

09-May-2023 OPINION

Vacated

Vacated by ASC Opinion filed on 06/18/2024.

Filed: 09-May-2023

Mandate:



Paul McMurdie.....Author
Michael Brown.....Concur
Michael Catlett.....Dissent

Table with 2 columns: Decision Disposition, Remanded in Part

58 PROCEEDING ENTRIES

- 1. 15-Jun-2022 FILED: Notice of Appeal from Maricopa County Superior Court filed 06/07/22. Notification sent to Court Reporters dated 06/14/2022.
2. 16-Jun-2022 ORDERED: Appointing the Maricopa County Public Defender as counsel for appellant. FURTHER ORDERED: Court Reporter Michael Babicky transcripts due by 08/01/2022. Benjamin A Armstrong ProTem Judge - Author
3. 23-Jun-2022 FILED: Designation of Record for Appeal (Appellant)
4. 21-Jul-2022 FILED: Record on Appeal: Combined Instruments/Minute Entries Disposition Report: #105, Filed 6/2/22 Exhibits: None

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5. 21-Jul-2022 FILED: Additional Record on Appeal
Physical Exhibits:
Hearing Date: 04/05/2022 List # 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 23 26 in manila envelope
Sealed Exhibit:
Confidential Criminal History Report in Sealed Manila Envelope
6. 22-Jul-2022 ORDERED: Court Reporter Michael A Babicky transcript dated 03/29/2022 due by 09/06/2022. FURTHER ORDERED: Reaffirming this previously set due date of 08/01/2022 for transcripts dated 04/05/2022; 04/06/2022; 04/07/2022; 04/12/2022; 04/13/2022; 04/14/2022; 05/18/2022 for Court Reporter Michael Babicky. FURTHER ORDERED: Court Reporter Lauren Kuhnhenh transcript dated 01/06/2022 due by 09/06/2022. FURTHER ORDERED: Court Reporter Scott Coniam transcript dated 12/16/2021 due by 09/06/2022. FURTHER ORDERED: Ken Crenshaw transcripts dated 11/18/2021; 11/10/2021; 10/12/2021; 09/17/2021; 05/04/2021 due by 09/06/2022. Hon David B Gass - Author
7. 31-Jul-2022 FILED: Reporter's Transcript - 05/18/2022 (Michael Babicky)
8. 31-Jul-2022 FILED: Reporter's Transcript - 04/14/2022 (Michael Babicky)
9. 31-Jul-2022 FILED: Reporter's Transcript - 04/13/2022 (Michael Babicky)
10. 31-Jul-2022 FILED: Reporter's Transcript - 04/12/2022 (Michael Babicky)
11. 1-Aug-2022 FILED: Reporter's Transcript - 04/07/2022 (Michael Babicky)
12. 1-Aug-2022 FILED: Reporter's Transcript - 04/06/2022 (Michael Babicky)
13. 1-Aug-2022 FILED: Reporter's Transcript - 04/05/2022 (Michael Babicky)
14. 2-Aug-2022 FILED: Reporter's Transcript - 12/16/2021 - Settlement Conference (Scott Coniam)
15. 12-Aug-2022 FILED: Reporter's Transcript - 05/04/2021 - Continuance (Janice Penfield)
16. 12-Aug-2022 FILED: Reporter's Transcript - 09/17/2021 - Conference (Janice Penfield)
17. 12-Aug-2022 FILED: Reporter's Transcript - 10/12/2021 - Conference (Janice Penfield)
18. 12-Aug-2022 FILED: Reporter's Transcript - 11/10/2021 - Trial Management Conference (Janice Penfield)
19. 12-Aug-2022 FILED: Reporter's Transcript - 11/18/2021 - Trial Assignment (Janice Penfield)
20. 15-Aug-2022 FILED: Reporter's Transcript - 01/06/2022 - Trial Procedure Conference (Lauren Kuhnhenh)
21. 2-Sep-2022 FILED: Reporter's Transcript - 03/29/2022 (Michael Babicky)
22. 2-Sep-2022 FILED: Notice of Completion of Record
23. 8-Sep-2022 FILED: Motion to Unseal Documents; Certificate of Service (Appellant)
24. 8-Sep-2022 FILED: Notice of Appearance; Certificate of Service (Appellant)
25. 12-Sep-2022 ORDERED: Upon presentation of this order, unsealing the confidential Court Information Sheets (I.O.R. 3 and 10); the Victim Identifier Information Form (I.O.R. 4); the Random Jury List (I.O.R. 81); and the Sealed Jury Questionnaires (I.O.R. 94, 95, 96, 97, 98 and 99) for parties/agents in this appeal only. Benjamin A Armstrong ProTem Judge - Author
26. 7-Oct-2022 FILED: Motion for Extension of Time to File Appellant's Opening Brief; Certificate of Service (Appellant)
27. 11-Oct-2022 ORDERED: Motion for Extension of Time to File Appellant's Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 10-17-2022 to Wednesday, 11-16-2022. Benjamin A Armstrong ProTem Judge - Author
28. 14-Nov-2022 FILED: Appellant's Opening Brief; Certification of Compliance With Arizona Rule of Criminal Procedure 31.12; Certificate of Service (Appellant)
29. 14-Dec-2022 FILED: Notice of Appearance; Certificate of Service (Appellee)
30. 22-Dec-2022 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
31. 6-Jan-2023 FILED: Motion for Extension of Time to File Appellant's Reply Brief; Certificate of Service (Appellant)
32. 10-Jan-2023 ORDERED: Motion for Extension of Time to File Appellant's Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 01-11-2023 to Thursday, 01-19-2023. Benjamin A Armstrong ProTem Judge - Author

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33. 10-Jan-2023 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
34. 12-Jan-2023 FILED: Returned US Mail, Order Extending Time to File Brief dated 01/10/2023, addressed to Ashley Kristine Torkelson, no longer there.
35. 19-Jan-2023 FILED: Appellant's Reply Brief; Certification of Compliance With Rule 31.12, Arcp; Certificate of Service (Appellant)
36. 20-Jan-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
37. 28-Jan-2023 CLNDR: CONFERENCE, Department D, 3-8-23, COURTROOM 2.
38. 7-Mar-2023 ORDERED: Vacating the conference scheduled for 03/08/2023. FURTHER ORDERED resetting conference in this matter to 03/15/2023. Hon Paul J McMurdie - Author
39. 9-May-2023 OPINION (Remanded in Part) Hon Paul J McMurdie - Author; Hon Michael J Brown - Concur; Hon Michael S Catlett - Dissent
[Vacated by ASC Opinion filed on 06/18/2024]
40. 9-May-2023 FILED: Opinion Distribution List
41. 25-May-2023 FILED: ASC Order filed 05/25/2023 re: Extending time for filing Petition for Review to 07/07/2023. This matter is subject to dismissal if not filed by 07/07/2023.
42. 7-Jul-2023 FILED: Email Notice from ASC re: Petition for Review filed 07/06/2023; request for partial record
43. 7-Jul-2023 FILED: Letter forwarding partial record to Arizona Supreme Court
44. 31-Jul-2023 FILED: ASC Order filed 07/31/2023 re: Extending time for filing Petition for Review [sic] to 09/06/2023. This matter is subject to dismissal if not filed by 09/06/2023.
45. 15-Dec-2023 FILED: Letter from ASC 12/15/2023 re: Petition for Review CONTINUED on 12/15/2023.
46. 9-Jan-2024 FILED: Letter from ASC, 01/09/2024, re: Petition for Review GRANTED on 01/09/2024
47. 12-Jan-2024 FILED: Copy of Letter forwarding complete record to ASC
48. 18-Jun-2024 FILED: Arizona Supreme Court Mandate - COA1 Decision Vacated - Remanded to COA1
49. 18-Jun-2024 FILED: Letter, 06/18/2024, from ASC to COA1, re: Returning Physical Exhibits
50. 20-Jun-2024 FILED: Additional Record on Appeal
Physical Exhibits:
Hearing Date: 04/05/2022 List # 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 23 26 in manila envelope
Sealed Exhibit:
Confidential Criminal History Report in Sealed Manila Envelope
51. 9-Jul-2024 ORDERED: Suspending this appeal for fourteen days, and revesting jurisdiction in the trial court for the limited purpose of stating its sentencing reasons on the record in compliance with A.R.S. § 13-711(A). FURTHER ORDERED: Giving Appellant twenty-one days from the day the trial court complies with A.R.S. § 13-711(A) to amend his appeal and brief any alleged error revealed by the court's reasons for imposing consecutive sentences. The State has seven days from the day Appellant files an amended appeal to respond. FURTHER ORDERED: Directing the Clerk of this Court to send this order to the Honorable Geoffrey H. Fish, the Clerk of the Maricopa County Superior Court and the Court Administrator, Criminal Appeals Division, Maricopa County Superior Court. FURTHER ORDERED: Directing the Clerk of the Maricopa County Superior Court to transmit to this Court a certified copy of the ruling, marked for filing in this case. Hon Paul J McMurdie - Author
52. 19-Jul-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record (Includes ME: RULING [07/09/2024])
53. 29-Jul-2024 FILED: Appellant's Amended Opening Brief (an Anders Brief); Certification of Compliance With Rule 31.12, ARCP; Certificate of Service (Appellant)
54. 29-Jul-2024 FILED: Motion for Leave to Allow Appellant to File Supplemental Brief In Propria Persona; Certificate of Service (Appellant)
55. 2-Aug-2024 FILED: Notice of Acknowledgment; Certificate of Service (Appellee)
56. 9-Aug-2024 ORDERED: Allowing appellant to file supplemental brief in propria persona. FURTHER ORDERED: Counsel to send copy of record to appellant, and copy of transmittal letter to Clerk/AG. FURTHER ORDERED: Appellant may raise additional points on/before 09/18/2024. FURTHER ORDERED: Answering brief to await court order. Hon Paul J McMurdie - Author
57. 13-Aug-2024 FILED: Letter dated, 08/12/2024, to Appellant from Counsel re: Right to File Pro Se Supplemental Opening Brief (Appellant)

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58. 14-Aug-2024 FILED: Notice of Substitution of Counsel; Certificate of Service (Appellee)