

Court of Appeals, Division One

Criminal - Anders Appeal

1 CA-CR 23-0100

STATE v. HAMLET

Appellate Case Information

Case Filed: 15-Mar-2023

Case Closed:

Dept/Composition

Department B

Hon. Michael J Brown
Hon. Andrew M Jacobs
Hon. David B Gass

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. KEVIN DUANE HAMLET, Appellant

(Litigant Group) KEVIN DUANE HAMLET

- Kevin Duane Hamlet

Attorneys for: Appellant

Adam Zickerman, Esq. (AZ Bar No. 22320)

CASE STATUS

Sep 10, 2024...Decision Rendered

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: YAV, V1300CR202280266, See File, See File, Michael R Bluff, Sentencing, JURY

2 OPEN DUE DATES

Motion for Reconsideration Due Due By: Thursday, October 10, 2024

Re: MEMORANDUM DECISION (Affirmed) Hon Andrew M Jacobs - Author; Hon Michael J Brown - Concur; Hon David B Gass - Concur (Motion for reconsideration extended thirty days from date of this decision.)

Petition for Review to ASC due Due By: Thursday, October 10, 2024

Re: MEMORANDUM DECISION (Affirmed) Hon Andrew M Jacobs - Author; Hon Michael J Brown - Concur; Hon David B Gass - Concur (Motion for reconsideration extended thirty days from date of this decision.)

CASE DECISION

10-Sep-2024 MEMORANDUM DECISION

Andrew Jacobs.....Author
Michael Brown.....Concur
David Gass.....Concur

Filed: 10-Sep-2024 Mandate:

Table with 1 column: Decision Disposition. Row 1: Affirmed

69 PROCEEDING ENTRIES

- 1. 15-Mar-2023 FILED: Notice of Appeal from Yavapai County Superior Court filed 03/03/23. Notification sent to Court Reporters dated 03/08/2023.
2. 15-Mar-2023 FILED: e-Record on Appeal: Instruments/Minute Entries: Combined Disposition Report: 21 Exhibits: Hearing Date: 01/18/2023 List # P1 P2 P3 P4 P5 P6 Hearing Date: 01/20/2023 List # P4 P7 P8 P9 P10 P11 P12 P14 P15 P16 P17 P18 P20 P21 P22 P23 P25 P26 P27 P35 P36 P37 P38 P39 P49 P60 P61 P62 P64 P65 P66 P67 D4
3. 24-Mar-2023 FILED: Appellate Clerk Notice (31.2(g))
4. 25-Mar-2023 FILED: Reporter's Transcript - 01/23/2023 - Evidentiary Hearing (PM) (M. Lisa Edgar)
5. 25-Mar-2023 FILED: Reporter's Transcript - 01/24/2023 - Jury Trial - Day 1 (PM) (M. Lisa Edgar)
6. 25-Mar-2023 FILED: Reporter's Transcript - 01/26/2023 - Jury Trial - Day 3 (AM) (M. Lisa Edgar)
7. 25-Mar-2023 FILED: Reporter's Transcript - 01/31/2023 - Jury Trial - Day 5 (AM) (M. Lisa Edgar)
8. 29-Mar-2023 FILED: Notice of Limited Appearance; Certificate of Service Re: Notice of Limited Appearance (Appellant)

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9. 15-Apr-2023 FILED: Request for Extension (Time to File Transcripts) (Carol Dillon)
10. 17-Apr-2023 FILED: Reporter's Transcript - 01/27/2023 - Jury Trial Day Four (AM) (Debra K. Upham)
11. 17-Apr-2023 FILED: Reporter's Transcript - 01/31/2023 - Jury Trial Day Five (PM) (Debra K. Upham)
12. 17-Apr-2023 FILED: Reporter's Transcript - 01/23/2023 - Evidentiary Hearing (AM) (Debra K. Upham)
13. 17-Apr-2023 FILED: Reporter's Transcript - 01/24/2023 - Jury Trial Day One (AM) (Debra K. Upham)
14. 17-Apr-2023 FILED: Reporter's Transcript - 01/25/2023 - Jury Trial Day Two (PM) (Debra K. Upham)
15. 17-Apr-2023 FILED: Reporter's Transcript - 01/26/2023 - Jury Trial Day Three (PM) (Debra K. Upham)
16. 17-Apr-2023 ORDERED: Request for Extension (Time to File Transcripts) (Carol Dillon) = GRANTED. Due Dates EXTENDED to 05/17/2023 for Transcripts dated 02/27/2023, 01/27/2023, 01/25/2023 or OSC set on 06/07/2023. Hon David B Gass - Author
17. 2-May-2023 FILED: Reporter's Transcript - 01/25/2023 - Jury Trial - Day 2 (Carol Dillon)
18. 2-May-2023 FILED: Reporter's Transcript - 01/27/2023 - Jury Trial - Day 4 (Carol Dillon)
19. 2-May-2023 FILED: Reporter's Transcript - 02/27/2023 - Judgement of Guilt and Sentencing (Carol Dillon)
20. 3-May-2023 FILED: Notice of Completion of Record
21. 13-Jun-2023 FILED: Motion for Sixty-Day Extension for Appeal Opening Brief; Certificate of Service Re: Motion for Sixty-Day Extension for Appeal Opening Brief (Appellant)
22. 16-Jun-2023 ORDERED: Motion for Sixty-Day Extension for Appeal Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 06-19-2023 to Wednesday, 07-19-2023. Benjamin A Armstrong ProTem Judge - Author
23. 19-Jul-2023 FILED: Emergency Motion for Fifteen-Day Extension for Appeal Opening Brief Expedited Ruling Requested; Certificate of Service Re: Emergency Motion for Fifteen-Day Extension for Appeal Opening Brief Expedited Ruling Requested (Appellant)
24. 20-Jul-2023 ORDERED: Emergency Motion for Fifteen-Day Extension for Appeal Opening Brief Expedited Ruling Requested (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 07-19-2023 to Thursday, 08-03-2023. Benjamin A Armstrong ProTem Judge - Author
25. 31-Jul-2023 FILED: Appellant's Ex Parte Request and Complaint to Remove Appellant Counsel and Appoint New Appellant Counsel - Pro Per (Appellant)
26. 3-Aug-2023 FILED: Appellant's Opening Brief (Anders Brief); Certificate Of Compliance Re: Appellant's Opening Brief; Certificate Of Service Re: Appellant's Opening Brief (Anders Brief) (Appellant)
27. 4-Aug-2023 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 09/13/2023. FURTHER ORDERED: Answering brief to await court order. Benjamin A Armstrong ProTem Judge - Author
28. 7-Aug-2023 ORDERED: Appellant's Ex Parte Request and Complaint to Remove Appellant Counsel and Appoint New Appellant Counsel - Pro Per (Appellant) = DENIED. Benjamin A Armstrong ProTem Judge - Author
29. 10-Aug-2023 FILED: Emergency Motion for Ninety-Day Extension for Appeal Opening Brief of Appellant to File Supplemental Brief (Anders) (Appellant Pro Per)
30. 11-Aug-2023 ORDERED: Emergency Motion for Ninety-Day Extension for Appeal Opening Brief of Appellant to File Supplemental Brief (Anders) (Appellant Pro Per) = GRANTED. Due date EXTENDED from Wednesday, 09-13-2023 to Thursday, 11-02-2023. Geoffrey P Butzine ProTem Judge - Author
31. 14-Aug-2023 FILED: Motion to Include in the Record on Appeal (Appellant Pro Per)
32. 14-Aug-2023 FILED: Motion to Supplement Record on Appeal (Appellant Pro Per)
33. 17-Aug-2023 FILED: Motion for Ninty-Day [sic] Extension for Appellant Opening Brief (Appellant Pro Per)
34. 17-Aug-2023 FILED: Motion to Vacate Certificate of Completion of Record on Appeal (Appellant Pro Per)

Court of Appeals, Division One**Criminal - Anders Appeal****1 CA-CR 23-0100****STATE v. HAMLET****69 PROCEEDING ENTRIES**

35. 22-Aug-2023 ORDERED: Motion to Include in the Record on Appeal (Appellant Pro Per) = GRANTED and supplementing the record with transcripts dated 09/08/2022, 09/26/2022, 11/07/2022, 12/27/2022. FURTHER ORDERED: Court reporters M. Lisa Edgar, Debra Upham, and Carol Dillon transcripts due 09/20/2023. FURTHER ORDERED: Directing Adam Zickerman, upon receipt of the above transcripts, to forward a paper copy of them to Appellant personally. The court notes that, by order dated 08/04/2023, it ordered Mr. Zickerman to furnish Appellant paper copies of the opening brief and all records on appeal, including transcripts in counsel's possession. Further, the court notes that the 08/04/2023, order directed Mr. Zickerman to provide the clerk of this court and Appellee a copy of the transmittal letter that specifies the documents Mr. Zickerman forwarded to Appellant. The court affirms the 08/04/2023, orders. FURTHER ORDERED: Motion to Supplement Record on Appeal = DENIED as moot; the motion requests supplementing the record on appeal with the same transcripts requested in the Motion to Include. FURTHER ORDERED: Motion for Ninty-Day = GRANTED. Due date EXTENDED from Thursday, 11-02-2023 to Monday, 01-23-2023 [sic]. FURTHER ORDERED: Motion to Vacate Certificate of Completion of Record on Appeal = DENIED. FURTHER ORDERED: Denying the remainder of the motion as moot; the motion requests the same transcripts requested in the Motion to Include. Geoffrey P Butzine ProTem Judge - Author
- [AMENDED per order filed 08/23/2023]
36. 23-Aug-2023 AMENDED ORDER: Motion to Include in the Record on Appeal (Appellant Pro Per) = GRANTED and supplementing the record with transcripts dated 09/08/2022, 09/26/2022, 11/07/2022, 12/27/2022. FURTHER ORDERED: Court reporters M. Lisa Edgar, Debra Upham, and Carol Dillon transcripts due 09/20/2023. FURTHER ORDERED: Directing Adam Zickerman, upon receipt of the above transcripts, to forward a paper copy of them to Appellant personally. The court notes that, by order dated 08/04/2023, it ordered Mr. Zickerman to furnish Appellant paper copies of the opening brief and all records on appeal, including transcripts in counsel's possession. Further, the court notes that the 08/04/2023, order directed Mr. Zickerman to provide the clerk of this court and Appellee a copy of the transmittal letter that specifies the documents Mr. Zickerman forwarded to Appellant. The court affirms the 08/04/2023, orders. FURTHER ORDERED: Motion to Supplement Record on Appeal = DENIED as moot; the motion requests supplementing the record on appeal with the same transcripts requested in the Motion to Include. FURTHER ORDERED: Motion for Ninty-Day = GRANTED. Due date EXTENDED from Thursday, 11-02-2023 to Monday, 01-23-2024. FURTHER ORDERED: Motion to Vacate Certificate of Completion of Record on Appeal = DENIED. FURTHER ORDERED: Denying the remainder of the motion as moot; the motion requests the same transcripts requested in the Motion to Include. Geoffrey P Butzine ProTem Judge - Author
37. 23-Aug-2023 FILED: Letter, dated 08/23/2023, to Appellant from Counsel re: Forwarding records on appeal; Certificate of Service Re: Notice of Filing: Transmittal Letter (Appellant)
38. 24-Aug-2023 FILED: Reporter's Transcript - 09/26/2022 - Pretrial Conference (Debra K. Upham)
39. 2-Sep-2023 FILED: Reporter's Transcript - 09/08/2022 - Torres Hearing and Pretrial Conference (M. Lisa Edgar)
40. 8-Sep-2023 FILED: Reporter's Transcript - 11/07/2022 - Motion for Sanctions (Carol Dillon)
41. 8-Sep-2023 FILED: Reporter's Transcript - 12/27/2022 - Case Management Conference (Carol Dillon)
42. 25-Sep-2023 FILED: Appellant's Motion for Court to Remove Appellant Counsel of Record and Request for Assistance of a Paralegal and Investigator (Appellant Pro Per)
43. 25-Sep-2023 FILED: Appellant's Notice to Court for Failure to Comply to Order to Supply Transcripts (Appellant Pro Per)
44. 6-Oct-2023 ORDERED: Appellant's Motion for Court to Remove Appellant Counsel of Record and Request for Assistance of a Paralegal and Investigator (Appellant Pro Per) = DENIED. FURTHER ORDERED: Appellant's Notice to Court for Failure to Comply to Order to Supply Transcripts = GRANTED and directing attorney Adam Zickerman to provide appellant paper copies of the transcripts of the proceedings that took place on 11/07/2022, and 12/27/2022, by 10/19/2023, if counsel has not already provided these transcripts to appellant. Benjamin A Armstrong ProTem Judge - Author
45. 6-Oct-2023 FILED: Appellant's Motion to Correct the Record on Appeal (Appellant Pro Per)
46. 16-Oct-2023 FILED: Appellant's Motion to Supplement Record on Appeal (Appellant Pro Per)
47. 16-Oct-2023 FILED: Request for Oral Argument (Appellant Pro Per)
48. 17-Oct-2023 ORDERED: Appellant's Motion to Correct the Record on Appeal (Appellant Pro Per) = DENIED. Benjamin A Armstrong ProTem Judge - Author
49. 19-Oct-2023 FILED: Appellant's Supplemental Opening Brief (Appellant)
50. 23-Oct-2023 ORDERED: Appellant's Motion to Supplement Record on Appeal (Appellant) = DENIED. Benjamin A Armstrong ProTem Judge - Author
51. 24-Oct-2023 FILED: Assigning Anders appeal to Dept B for consideration and disposition. [Amy M. Wood, Clerk]
52. 14-Dec-2023 FILED: Appellant's Request for Notification of State's Reply/Answering Brief (Appellant Pro Per)

Court of Appeals, Division One**Criminal - Anders Appeal****1 CA-CR 23-0100****STATE v. HAMLET****69 PROCEEDING ENTRIES**

53. 25-Jan-2024 FILED: Appellant's Motion to Dismiss All or Vacate All Charges with Prejudice and Immediate Release of Appellant (Appellant Pro Per)
54. 16-Apr-2024 FILED: Motion to Withdraw as Attorney of Record; Certificate of Service Re: Motion to Withdraw as Attorney of Record (Appellant)
55. 20-May-2024 FILED: Notice of Change of Address (Appellant Pro Per)
56. 24-May-2024 FILED: Letter, 5/24/24, from Court to Appellant, enclosing copy of docket
57. 3-Jul-2024 ORDERED: Suspending this appeal until 08/30/2024, and revesting jurisdiction in the superior court for the limited purpose of stating its sentencing reasons on the record in compliance with A.R.S. § 13-711(A). See Perez-Gutierrez, CR-23-0137-PR, at *5 ¶ 28 (citing Ariz. R. Crim. P. 24.4). IT FURTHER IS ORDERED: Giving Appellant's counsel twenty-one days from the day the superior court complies with A.R.S. § 13-711(A) to amend this appeal and brief any alleged error revealed by the superior court's reasons for imposing consecutive sentences. The State has fourteen days from the day Appellant's counsel files an amended appeal to respond. IT FURTHER IS ORDERED: Directing the Clerk of the Yavapai County Superior Court to transmit to this Court a certified copy of the superior court's ruling complying with this order, marked for filing in this case. Hon Michael J Brown - Author
58. 26-Jul-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record (Notice Setting Status Conference Re: Sentencing)
59. 29-Jul-2024 FILED: Appellant's Motion for Reconsideration Request for *Expedited Ruling Sought* (Appellant Pro Per)
60. 30-Jul-2024 ORDERED: Appellant's Motion for Reconsideration Request for *Expedited Ruling Sought* (Appellant Pro Per) = DENIED. Hon Michael J Brown - Author
61. 31-Jul-2024 FILED: Reporter's Transcript - 07/30/2024 - Hearing Pursuant to A.R.S. 13-711(A)- PM Session - (Penny Tardiff)
62. 31-Jul-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
63. 9-Aug-2024 FILED: Returned US Mail, Order denying Motion for Reconsideration dated 07/30/2024, addressed to Kevin Duane Hamlet, Inmate Released (Resent 08/09/2024)
64. 10-Sep-2024 ORDERED: Motion to Withdraw as Attorney of Record (Appellant) = DENIED. Hon Andrew M Jacobs - Author
65. 10-Sep-2024 ORDERED: Request for Oral Argument (Appellant Pro Per) = DENIED. Hon Andrew M Jacobs - Author
66. 10-Sep-2024 ORDERED: Appellant's Request for Notification of State's Reply/Answering Brief (Appellant Pro Per) = DENIED. Hon Andrew M Jacobs - Author
67. 10-Sep-2024 ORDERED: Appellant's Motion to Dismiss All or Vacate All Charges with Prejudice and Immediate Release of Appellant (Appellant Pro Per) = DENIED. Hon Andrew M Jacobs - Author
68. 10-Sep-2024 MEMORANDUM DECISION (Affirmed) Hon Andrew M Jacobs - Author; Hon Michael J Brown - Concur; Hon David B Gass - Concur (Motion for reconsideration extended thirty days from date of this decision.)
69. 10-Sep-2024 FILED: Decision Distribution Notification