

Court of Appeals, Division One

Criminal

1 CA-CR 23-0192

STATE v. BACKUS

Appellate Case Information

Case Filed: 16-May-2023

Case Closed:

Dept/Composition

Department E

Hon. Anni Hill Foster
Hon. Brian Y Furuya
Hon. Randall M Howe

Side 1. STATE OF ARIZONA, Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellee

Diane L Hunt, Esq. (AZ Bar No. 16566)

Side 2. SCOTT BACKUS, Appellant

(Litigant Group) SCOTT BACKUS

- Scott Backus

Attorneys for: Appellant

Michael J Dew, Esq. (AZ Bar No. 4543)

CASE STATUS

Jul 31, 2024.....Pending in ASC

PREDECESSOR CASE (S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
YAV V1300CR202280018	Possession or Use of Narcotic Drugs (Fentanyl)	4 years, Probation	Michael R Bluff, Sentencing	JURY	

DESCENDENT CASE (S)

ASC CR-24-0172-PR

CASE DECISION

18-Jun-2024 MEMORANDUM DECISION

Randall Howe.....Author
Anni Foster.....Concur
Brian Furuya.....Concur

Filed: 18-Jun-2024 Mandate:

Decision Disposition

Affirmed

53 PROCEEDING ENTRIES

- 16-May-2023 FILED: Notice of Appeal from Yavapai County Superior Court filed 05/02/23. Notification sent to Court Reporters dated 05/10/2023.
- 16-May-2023 FILED: e-Record on Appeal: Instruments/Minute Entries: Combined
Disposition Report: 12
Exhibits:
Hearing Date: 05/11/2022 List # 5 6
Hearing Date: 05/17/2022 List # 9 10 12
Hearing Date: 08/22/2022 List # 30 31 32 33
Hearing Date: 08/31/2022 List # 23 34 44
Hearing Date: 11/08/2022 List # 50 51 52 55 61 62
Hearing Date: 11/09/2022 List # 53 63
Hearing Date: 11/10/2022 List # 56
- 18-May-2023 FILED: Appellate Clerk Notice (31.2(g))
- 19-May-2023 FILED: Additional Record on Appeal
Physical Exhibits:
Hearing Date: 05/17/2022 List # 3 4 13 in manila envelope
Hearing Date: 09/02/2022 List # 18 in manila envelope
- 1-Jun-2023 FILED: Reporter's Transcript - 05/12/2022 - Evidentiary Hearing (M. Lisa Edgar)
- 1-Jun-2023 FILED: Reporter's Transcript - 08/31/2022 - Jury Trial - Day One (M. Lisa Edgar)
- 1-Jun-2023 FILED: Reporter's Transcript - 09/01/2022 - Jury Trial - Day Two - Morning Proceedings (M. Lisa Edgar)

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8. 1-Jun-2023 FILED: Reporter's Transcript - 09/03/2022[sic] - Jury Trial - Day Three - Morning Proceedings (M. Lisa Edgar)
9. 2-Jun-2023 FILED: Request for Extension of Time (Time to File Transcripts) (Debra K Upham)
10. 2-Jun-2023 ORDERED: Request for Extension of Time (Time to File Transcripts) (Debra K Upham) = GRANTED. Due Dates EXTENDED to 07/17/2023 for Transcripts dated 05/11/2022, 05/17/2022, 09/02/2022, 11/08/2022, 11/09/2022, 05/01/2023 or OSC set on 07/19/2023. Hon David B Gass - Author
11. 8-Jun-2023 FILED: Request for Extension (Time to File Transcripts) (Carol Dillon); Request for Extension (Time to File Transcripts) (Carol Dillon) (Duplicate)
12. 8-Jun-2023 ORDERED: Request for Extension (Time to File Transcripts) (Carol Dillon); Request for Extension (Time to File Transcripts) (Carol Dillon) (Duplicate) = GRANTED. Due Dates EXTENDED to 07/17/2023 for Transcripts dated 09/01/2022, 11/09/2022, 11/10/2022 or OSC set on 07/19/2023. Hon David B Gass - Author

[VACATED per order filed 07/11/2023]
13. 29-Jun-2023 FILED: Reporter's Transcript - 05/11/2022 - Motion to Suppress (Debra K Upham)
14. 29-Jun-2023 FILED: Reporter's Transcript - 05/17/2022 - Motion to Suppress (Debra K Upham)
15. 29-Jun-2023 FILED: Reporter's Transcript - 09/02/2022 - Jury Trial Day Three of Three (Debra K Upham)
16. 29-Jun-2023 FILED: Reporter's Transcript - 11/08/2022 - Jury Trial Day One of Three (Debra K Upham)
17. 29-Jun-2023 FILED: Reporter's Transcript - 11/09/2022 - Jury Trial Day Two of Three (Debra K Upham)
18. 29-Jun-2023 FILED: Reporter's Transcript - 05/01/2023 - Judgment of Guilt and Sentence (Debra K Upham)
19. 10-Jul-2023 FILED: Untitled Motion for Extension (Time to File Transcripts) (Carol Dillon)
20. 10-Jul-2023 FILED: Untitled Motion for Extension (Time to File Transcripts) (Carol Dillon) (CORRECTED VERSION)
21. 11-Jul-2023 ORDERED: Untitled Motion for Extension (Time to File Transcripts) (Carol Dillon) = GRANTED. Due Dates EXTENDED to 08/16/2023 for Transcripts dated 09/01/2022, 11/09/2022, 11/10/2022 or OSC set on 08/30/2023. FURTHER ORDERED: Vacating OSC currently set for 07/19/2023. Hon Randall M Howe - Author
22. 1-Aug-2023 FILED: Reporter's Transcript - 09/01/2022 - Jury Trial - Day 2 (Carol Dillon)
23. 1-Aug-2023 FILED: Reporter's Transcript - 11/09/2022 - Jury Trial - Day 2 (Carol Dillon)
24. 1-Aug-2023 FILED: Reporter's Transcript - 11/10/2022 - Jury Trial - Day 3 (Carol Dillon)
25. 1-Aug-2023 FILED: Notice of Completion of Record
26. 15-Sep-2023 FILED: Letter, undated, from Appellant to Court re: Status
27. 22-Sep-2023 FILED: Letter, 9/22/23, from Court to Appellant, enclosing copy of docket
28. 25-Sep-2023 ORDERED: Opening Brief due 10/05/2023 or OSC set on 10/18/2023. Benjamin A Armstrong ProTem Judge - Author

[VACATED per order filed 09/27/2023]
29. 26-Sep-2023 FILED: Appellate Counsel's Motion to Modify the Deadline to File Opening Brief and Notice of Apology to the Court; Certificate of Service (Appellant)
30. 27-Sep-2023 ORDERED: Appellate Counsel's Motion to Modify the Deadline to File Opening Brief and Notice of Apology to the Court (Appellant) = GRANTED. Due date EXTENDED from Thursday, 10-05-2023 to Thursday, 11-09-2023. FURTHER ORDERED: Vacating the 10/18/2023 OSC. Benjamin A Armstrong ProTem Judge - Author
31. 6-Oct-2023 FILED: Leave to Amend/Time Extention [sic]/Contact Order (Appellant Pro Per)
32. 12-Oct-2023 ORDERED: Leave to Amend/Time Extention [sic]/Contact Order (Appellant Pro Per) = DENIED. FURTHER ORDERED: Advising appellant that the opening brief is currently due by 11/09/2023. FURTHER ORDERED: Advising appellant that if appellant's counsel files an opening brief pursuant to Anders v. California, 386 U.S. 738, 744 (1967), the court will issue an order allowing appellant to file a pro se supplemental opening brief in accordance with Anders. Benjamin A Armstrong ProTem Judge - Author
33. 13-Nov-2023 FILED: Appellant's Motion to Modify Deadline to File Opening Brief; Certificate of Service (Appellant)

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34. 13-Nov-2023 ORDERED: Directing court reporters Carol Dillon and Lisa Edgar to provide appellant's counsel one copy of all transcripts they have prepared in this matter, and to do so by 12/13/2023. FURTHER ORDERED: Opening brief is due by 01/12/2024. FURTHER ORDERED: In all other matters in which appellant's counsel appears in this court, appellant's counsel must comply with Division One Administrative Order 2020-03, which provides in relevant part that if a party has not obtained an order extending the time to file a brief prior to the deadline to file, the brief must be timely filed. Benjamin A Armstrong ProTem Judge - Author
35. 15-Jan-2024 FILED: Appellate Counsel's Motion to Withdraw and Appoint New Counsel; Certificate of Service (Appellant)
36. 16-Jan-2024 ORDERED: Appellate Counsel's Motion to Withdraw and Appoint New Counsel (Appellant) = GRANTED. FURTHER ORDERED: Directing the Contract Administrator of the Yavapai County Public Defender to assign new counsel to represent appellant in this appeal and to provide this court the name of assigned counsel by 02/06/2024. FURTHER ORDERED: Vacating the 01/12/2024, deadline to file the opening brief. Benjamin A Armstrong ProTem Judge - Author
37. 17-Jan-2024 FILED: Notice of Appointment of Appellate Counsel; Certificate of Service (Appellant)
38. 17-Jan-2024 FILED: Notice of Assignment; Certificate of Service (Appellant)
39. 18-Jan-2024 ORDERED: That Attorney Katherine Winkley must immediately forward all files, records, transcripts, and other documents that relate to this appeal to newly appointed counsel. FURTHER ORDERED: The opening brief is due by 03/04/2024. Benjamin A Armstrong ProTem Judge - Author
40. 22-Feb-2024 FILED: Appellant's Opening Biref; Certificate of Compliance; Certificate of Service (Appellant)
41. 29-Feb-2024 FILED: Notice of Appearance; Certificate of Service (Appellee)
42. 22-Mar-2024 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
43. 11-Apr-2024 FILED: Leave to Self-Represent and Supplement Opening Brief (Appellant Pro Per)
44. 12-Apr-2024 FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
45. 15-Apr-2024 ORDERED: Leave to Self-Represent and Supplement Opening Brief (Appellant Pro Per) = DENIED. Benjamin A Armstrong ProTem Judge - Author
46. 22-Apr-2024 FILED: Returned US Mail, Order Denying Motion for Self-Representation and Motion to File Supplemental Opening Brief dated 04/15/2024, addressed to Scott Backus, Not in Custody (Resent 04/22/2024)
47. 26-Apr-2024 CLNDR: CONFERENCE, Department E, 6-6-24, CONFERENCE ROOM.
48. 29-Apr-2024 FILED: Notice of Changed Address (Petitioner Pro Per)
49. 18-Jun-2024 MEMORANDUM DECISION (Affirmed) Hon Randall M Howe - Author; Hon Anni Hill Foster - Concur; Hon Brian Y Furuya - Concu
50. 18-Jun-2024 FILED: Decision Distribution Notification
51. 17-Jul-2024 FILED: ASC Order filed 07/17/2024 re: Motion is denied without prejudice to Appellant's ability to file a motion in compliance with Arizona Rules of Crim. Proc. Rule 31.6(e) and ARCAP 6(b). This matter is subject to dismissal if a compliant motion or petition for review is not filed by 08/01/2024.
52. 31-Jul-2024 FILED: Email Notice from ASC re: Petition for Review filed 07/31/2024; request for partial record
53. 1-Aug-2024 FILED: Letter forwarding partial record to Arizona Supreme Court