

Court of Appeals, Division One

Criminal

1 CA-CR 23-0209

STATE v. LALLANDE

Appellate Case Information

Case Filed: 6-Jun-2023
Case Closed:

Dept/Composition

Department F
Hon. Daniel J Kiley
Hon. Kent E Cattani
Hon. D Steven Williams

Side 1. STATE OF ARIZONA, Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellee

Amy Pignatella Cain, Esq. (AZ Bar No. 20629)

Side 2. THOMAS J LALLANDE, IV, Appellant

(Litigant Group) THOMAS J LALLANDE, IV

- Thomas J Lallande, IV

Attorneys for: Appellant

Stephen N Mercer, Esq. (AZ Bar No. 20242)

CASE STATUS

Jun 25, 2024....Stayed

Apr 18, 2024.....Under Advisement

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR2020-000414-001	Narcotic Drug-Possess for Sale, Class 2; Dangerous Drug-Poss/Use, Class 4; Drug Paraphernalia-Possess/Use	5 years, ADOC; 2.5 years, ADOC; 1 year, ADOC	Lisa Ann Vandenberg, Sentencing	JURY	

66 PROCEEDING ENTRIES

- 6-Jun-2023 FILED: Notice of Appeal from Maricopa County Superior Court filed 05/24/23. Notification sent to Court Reporters dated 06/05/2023.
- 6-Jun-2023 FILED: Appellate Clerk Notice (31.2(g))
- 8-Jun-2023 ORDERED: Appointing the Maricopa County Public Defender as counsel for appellant. FURTHER ORDERED: Ken Crenshaw and Court reporters Scott Kindle, Robin Lawlor, transcripts due 07/24/2023 Benjamin A Armstrong ProTem Judge - Author
- 13-Jun-2023 FILED: Returned US Mail, Appellate Clerk Notice (31.2(g)) dated 06/06/2023, addressed to Thomas J Lallande IV, No Longer in Custody
- 14-Jun-2023 FILED: Reporter's Transcript - 05/18/2023 - Sentencing (Robin Lawlor)
- 20-Jun-2023 FILED: Courtesy Copy - Designation of Record for Appeal Filed in Superior Court (Appellant)
- 21-Jun-2023 ORDERED: Ken Crenshaw transcripts dated 04/27/2021, 06/21/2021, 08/03/2021, 08/19/2021, 09/22/2021, 10/26/2021, 11/09/2021, 01/05/2022, 01/18/2022, 01/19/2022, 02/01/2022, 02/23/2022, 03/31/2022, 04/28/2022, 05/12/2022, 07/21/2022, 09/08/2022, 10/27/2022, 11/10/2022, 11/14/2022, 11/17/2022, 12/15/2022, 01/12/2023, 02/07/2023, 03/17/2023 due by 08/07/2023. FURTHER ORDERED: Reaffirming this previously set due date of 07/24/2023, as it relates to the transcripts of 11/01/2021, for Ken Crenshaw. FURTHER ORDRED: Court Reporter Linda Lopez transcript dated 02/07/2022 due by 08/07/202. FURTHER ORDRED: Court Reporter Terry L Masciola transcript dated 02/02/2022 due by 08/07/2023. FURTHER ORDRED: Court Reporter Catherine Turner transcript dated 01/24/2022 due by 08/07/2023. Hon David B Gass - Author
- 6-Jul-2023 FILED: Additional Record on Appeal
Physical Exhibits:
Hearing Date: 02/10/2022 List # 4 5 6 7 11 15 16 17 19 20 21 22 23
24 25 26 27 28 30 31 32 33 in manila envelope
Sealed Exhibit:
Confidential Criminal History Report in Sealed Manila Envelope
- 6-Jul-2023 FILED: e-Record on Appeal:
Instruments/Minute Entries: Combined
Disposition Report: 174
Exhibits: None sent with e-Record
- 19-Jul-2023 FILED: Reporter's Transcript - 01/24/2022 - Jury Trial/Continuance - (Catherine Turner)
- 19-Jul-2023 FILED: First Request for Extension of Time to File Transcripts (Scott Kindle)

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12. 20-Jul-2023 ORDERED: First Request for Extension of Time to File Transcripts (Scott Kindle) = GRANTED. Due Dates EXTENDED to 08/23/2023 for Transcripts dated 02/10/2022, 02/15/2022 or OSC set for 08/30/2023. Hon Randall M Howe - Author
[AMENDED per order filed 08/09/2023]
13. 1-Aug-2023 ORDERED: Ken Crenshaw transcript dated 11/01/2021 due by 08/31/2023 or OSC set on 09/06/2023. Hon Randall M Howe - Author
14. 2-Aug-2023 FILED: Motion to Unseal Documents; Certificate of Service (Appellant)
15. 4-Aug-2023 ORDERED: Motion to Unseal Documents (Appellant) = GRANTED. Upon presentation of this order, unsealing the Court Information Sheets (I.O.R. 3 and 22); the Random Jury List (I.O.R. 123); the Medical Report of Dr. Jason Frizzel dated 03/23/2022 (I.O.R. 157); the Medical Report of Dr. Katherine Spector dated 03/24/2022 (I.O.R. 158); and the Medical Report of Dr. Jason Frizzell dated 04/21/2022 (I.O.R. 159), for parties/agents for this appeal only. Benjamin A Armstrong ProTem Judge - Author
16. 4-Aug-2023 FILED: Reporter's Transcript - 02/07/2022 - Trial Preparation Conference - (Linda Lopez)
17. 5-Aug-2023 FILED: First Motion for Extension of Time to File Transcript (Terry Masciola)
18. 7-Aug-2023 ORDERED: First Motion for Extension of Time to File Transcript (Terry Masciola) = GRANTED. Due date EXTENDED from Monday, 08-07-2023 to Wednesday, 09-06-2023 (Transcript for 02/02/2022 by Reporter Terry L Masciola) or OSC set for 09/13/2023. Hon Randall M Howe - Author
[AMENDED per order filed 08/09/2023]
19. 9-Aug-2023 FILED: Untitled Motion for Extension (Time to File Transcripts) (Kimberly McCright)
20. 9-Aug-2023 ORDERED: Untitled Motion for Extension (Time to File Transcripts) (Kimberly McCright) = GRANTED. Due Dates EXTENDED to 09/06/2023 for Transcripts dated 04/27/2021, 06/21/2021, 08/03/2021, 08/19/2021, 09/22/2021, 10/26/2021, 11/09/2021, 01/05/2022, 01/18/2022, 01/19/2022, 02/01/2022, 02/23/2022, 03/31/2022, 04/28/2022, 05/12/2022, 07/21/2022, 09/08/2022, 10/27/2022, 11/10/2022, 11/14/2022, 11/17/2022, 12/15/2022, 01/12/2023, 02/07/2023, 03/17/2023 or OSC set on 09/13/2023. Hon Randall M Howe - Author
[AMENDED per order filed 08/09/2023]
21. 9-Aug-2023 AMENDED ORDER: First Request for Extension of Time to File Transcripts (Scott Kindle) = GRANTED. Due Dates EXTENDED to 08/23/2023 for Transcripts dated 02/10/2022, 02/15/2022 or OSC set for 09/06/2023. Hon Randall M Howe - Author
22. 9-Aug-2023 AMENDED ORDER: Untitled Motion for Extension (Time to File Transcripts) (Kimberly McCright) = GRANTED. Due Dates EXTENDED to 09/06/2023 for Transcripts dated 04/27/2021, 06/21/2021, 08/03/2021, 08/19/2021, 09/22/2021, 10/26/2021, 11/09/2021, 01/05/2022, 01/18/2022, 01/19/2022, 02/01/2022, 02/23/2022, 03/31/2022, 04/28/2022, 05/12/2022, 07/21/2022, 09/08/2022, 10/27/2022, 11/10/2022, 11/14/2022, 11/17/2022, 12/15/2022, 01/12/2023, 02/07/2023, 03/17/2023 or OSC set on 09/20/2023. Hon Randall M Howe - Author
23. 9-Aug-2023 AMENDED ORDER: First Motion for Extension of Time to File Transcript (Terry Masciola) = GRANTED. Due date EXTENDED from Monday, 08-07-2023 to Wednesday, 09-06-2023 (Transcript for 02/02/2022 by Reporter Terry L Masciola) or OSC set for 09/20/2023. Hon Randall M Howe - Author
24. 14-Aug-2023 FILED: Reporter's Transcript - 02/02/2022 - Status Conference/TPC Conference - (Terry Masciola)
25. 16-Aug-2023 FILED: Reporter's Transcript - 02/10/2022 - Trial Day 1 (Scott Kindle)
26. 16-Aug-2023 FILED: Reporter's Transcript - 02/15/2022 - Trial Day 2 (Scott Kindle)
27. 1-Sep-2023 FILED: Reporter's Transcript - 11/01/2021 - Oral Argument (Kimberly C. McCright)
28. 6-Sep-2023 FILED: Reporter's Transcript - 09/22/2021 - Trial Continuance Past Last Day (Kimberly C. McCright)
29. 6-Sep-2023 FILED: Reporter's Transcript - 10/26/2021 - Final Trial Management Conference (Kimberly C. McCright)
30. 6-Sep-2023 FILED: Reporter's Transcript - 11/09/2021 - Trial Assignment (Kimberly C. McCright)
31. 6-Sep-2023 FILED: Reporter's Transcript - 01/05/2022 - Final Trial Management Conference (Kimberly C. McCright)
32. 6-Sep-2023 FILED: Reporter's Transcript - 04/27/2021 - Status Conference (Kimberly C. McCright)
33. 6-Sep-2023 FILED: Reporter's Transcript - 06/21/2021 - Status Conference (Kimberly C. McCright)
34. 6-Sep-2023 FILED: Reporter's Transcript - 08/03/2021 - Settlement Conference (Kimberly C. McCright)

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35.	6-Sep-2023	FILED: Reporter's Transcript - 08/19/2021 - Settlement Conference (Kimberly C. McCright)
36.	6-Sep-2023	FILED: Reporter's Transcript - 01/18/2022 - Trial Assignment (Kimberly C. McCright)
37.	6-Sep-2023	FILED: Reporter's Transcript - 01/19/2022 - Trial Procedure Conference (Kimberly C. McCright)
38.	6-Sep-2023	FILED: Reporter's Transcript - 02/01/2022 - Trial Assignment (Kimberly C. McCright)
39.	6-Sep-2023	FILED: Reporter's Transcript - 02/23/2022 - Status Conference (Kimberly C. McCright)
40.	6-Sep-2023	FILED: Reporter's Transcript - 11/17/2022 - Criminal Competency Hearing Continuance (Kimberly C. McCright)
41.	6-Sep-2023	FILED: Reporter's Transcript - 12/15/2022 - Rule 11 Evidentiary Hearing (Kimberly C. McCright)
42.	6-Sep-2023	FILED: Reporter's Transcript - 01/12/2023 - Status Conference (Kimberly C. McCright)
43.	6-Sep-2023	FILED: Reporter's Transcript - 02/07/2023 - Settlement Conference (Kimberly C. McCright)
44.	6-Sep-2023	FILED: Reporter's Transcript - 03/31/2022 - Criminal Competency Hearing Continuance (Kimberly C. McCright)
45.	6-Sep-2023	FILED: Reporter's Transcript - 04/28/2022 - Criminal Competency Hearing Continuance (Kimberly C. McCright)
46.	6-Sep-2023	FILED: Reporter's Transcript - 05/12/2022 - Criminal Competency Hearing Continuance Rule 11 Evidentiary Hearing Set (Kimberly C. McCright)
47.	6-Sep-2023	FILED: Reporter's Transcript - 07/21/2022 - Status Conference (Kimberly C. McCright)
48.	6-Sep-2023	FILED: Reporter's Transcript - 09/08/2022 - Status Conference (Kimberly C. McCright)
49.	6-Sep-2023	FILED: Reporter's Transcript - 10/27/2022 - Status Conference (Kimberly C. McCright)
50.	6-Sep-2023	FILED: Reporter's Transcript - 11/10/2022 - Status Conference (Kimberly C. McCright)
51.	6-Sep-2023	FILED: Reporter's Transcript - 11/14/2022 - Criminal Competency Hearing Continuance (Kimberly C. McCright)
52.	6-Sep-2023	FILED: Reporter's Transcript - 03/17/2023 - Status Conference (Kimberly C. McCright)
53.	6-Sep-2023	FILED: Notice of Completion of Record
54.	12-Sep-2023	FILED: Motion to Withdraw and Substitute New Counsel; Motion to Extend Opening Brief Due Date; Certificate of Service (Appellant)
55.	18-Sep-2023	ORDERED: Motion to Withdraw and Substitute New Counsel (Appellant) = GRANTED. FURTHER ORDERED: Appointing attorney Stephen Mercer as attorney for appellant in this appeal. FURTHER ORDERED: Maricopa County Public Defender must immediately forward all files, records, transcripts, and other documents that relate to this appeal to newly appointed counsel. FURTHER ORDERED: Motion to Extend Opening Brief Due Date = GRANTED. Due date EXTENDED from Monday, 10-23-2023 to Thursday, 11-02-2023. Benjamin A Armstrong ProTem Judge - Author
56.	23-Oct-2023	FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
57.	23-Oct-2023	FILED: Exhibit A - Motion to Suppress (Appellant)
58.	23-Oct-2023	FILED: Exhibit B - Motion to Suppress (Appellant)
59.	26-Oct-2023	FILED: Notice of Appearance; Certificate of Service (Appellee)
60.	29-Nov-2023	FILED: Unopposed Motion for Procedural Order (Extension for Answering Brief); Certificate of Service (Appellee)
61.	29-Nov-2023	ORDERED: Unopposed Motion for Procedural Order (Extension for Answering Brief) (Appellee) = GRANTED. Due date EXTENDED from 12/04/2023 to 01/03/2024 Benjamin A Armstrong ProTem Judge - Author
62.	2-Jan-2024	FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
63.	30-Jan-2024	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
64.	9-Feb-2024	FILED: Supplemented Superior Court e-Record with Revised Index of Record
65.	26-Feb-2024	CLNDR: CONFERENCE, Department F, 4-18-24, CONFERENCE ROOM.

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66. 25-Jun-2024 MEMORANDUM DECISION (Vacated in Part, Remanded) Hon Kent E Cattani - Author; Hon Daniel J Kiley - Concur; Hon D Steven Williams - Concur (We vacate the superior court's ruling and remand for the limited purpose of allowing the court to hold an evidentiary hearing. This appeal is stayed pending the outcome of the hearing. If the court finds no constitutional violation after considering evidence presented at the hearing, the superior court must transmit a certified copy of its ruling to the clerk of this court along with the hearing transcripts. If the parties elect to file supplemental briefs based on the hearing, they may do so within 15 days of the superior court transmitting its ruling. The matter will be deemed submitted after the filing time has expired, and the stay will be lifted. If, however, the superior court finds a constitutional violation occurred, it must enter an order setting aside Lallande's convictions and sentences. In that event, the stayed appeal will be dismissed as moot.)
67. 25-Jun-2024 FILED: Decision Distribution Notification