

Court of Appeals, Division One

Civil Appeal

1 CA-CV 22-0384

APS v. MICHAEL, et al.

Appellate Case Information

Case Filed: 16-Jun-2022

Case Closed: 8-Mar-2024

Reinstated x 1: 11-Mar-2024 Dismissal

Re-Closed:

Dept/Composition

Department E

Hon. James B Morse
Hon. Cynthia J Bailey
Hon. Brian Y Furuya

Side 1. ARIZONA PUBLIC SERVICE COMPANY, Plaintiff/Appellee

(Litigant Group) ARIZONA PUBLIC SERVICE COMPANY

- Arizona Public Service Company

Attorneys for: Plaintiff/Appellee

Martin A Aronson, Esq. (AZ Bar No. 9005)
Jeffrey D Gross, Esq. (AZ Bar No. 11510)
Michael W Zimmerman, Esq. (AZ Bar No. 27442)
Joseph N Roth, Esq. (AZ Bar No. 25725)
John S. Bullock, Esq. (AZ Bar No. 34950)

Side 2. MIKE MICHAEL, et al., Defendant/Appellant

(Litigant Group) MIKE MICHAEL, et al. (Bonnie Span dismissed per order filed 04/26/2023) (Darlene Span dismissed per MD filed 02/06/2024)

- Mike Michael PRO SE
Bonnie M Span
Darlene Span

Side 3. GREGORY BEST, Intervenor

(Litigant Group) GREGORY BEST [DENIED PER ORDER FILED 02/23/2023]

- Gregory Best PRO SE

CASE STATUS

Jul 3, 2024..... Pending in ASC Mar 11, 2024..... Reinstated Case

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR CV2020-006886, Eminent Domain Condemnation, Katherine Cooper, Authoring Judge of Order.

DESCENDENT CASE(S)

ASC CV-24-0051-PR

CASE DECISION

06-Feb-2024 MEMORANDUM DECISION

Brian Furuya.....Author
James Morse.....Concur
Cynthia Bailey.....Concur

Filed: 06-Feb-2024

Mandate:

Decision Disposition

Affirmed

100 PROCEEDING ENTRIES

- 1. 16-Jun-2022 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 05/26/22 and Supplemental record with Notice of Appeal from Maricopa County Superior Court filed 9/2/22
2. 16-Jun-2022 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
3. 17-Jun-2022 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4. 20-Jun-2022 FILED: Supplemented Superior Court e-Record with Revised Index of Record [includes Final Decree in Condemnation; ME: Order Entered by Court [06/16/2022]]
5. 30-Jun-2022 RECEIPT No.: 2022-00714 ; \$280.00 Applied to: MIKE MICHAEL, et al. - Class A Filing Fee (\$280.00) Paid for: BONNIE M SPAN - By BONNIE M SPAN

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6. 7-Jul-2022 FILED: Request for Extention [sic] of Time Needed (Appellants Pro Per)
7. 8-Jul-2022 ORDERED: Request for Extention [sic] of Time Needed (Appellants Pro Per) = GRANTED. Case management statement due date EXTENDED from Thursday, 07-07-2022 to Saturday, 07-30-2022. If case management statement is not timely filed, court will consider imposing sanctions, which may include dismissing appeal. See ARCAP 25. Opening brief remains due 08/16/2022. Barbara Vidal Vaught - Author
8. 11-Jul-2022 FILED: Appellate Clerk Notice re: Appellee's Fee; Appellant's Brief/Case Management Statement Due
9. 11-Jul-2022 FILED: Returned US Mail, Appellate Clerk Notice dated 06/17/2022, addressed to Darlene Span, Not Deliverable as Addressed
10. 11-Jul-2022 AMENDED ORDER: Request for Extention [sic] of Time Needed (Appellants Pro Per) = GRANTED. Case management statement due date EXTENDED from Thursday, 07-07-2022 to Monday, 08-01-2022. If case management statement is not timely filed, court will consider imposing sanctions, which may include dismissing appeal. See ARCAP 25. Opening brief remains due 08/16/2022. Barbara Vidal Vaught - Author
11. 19-Jul-2022 ORDERED: (per Sorensen v. Farmers) staying appeal until 09/02/2022. Signed order with certification of finality pursuant to Rule 54(c) due within 10 days after its entry. If appeal reinstated by filing of signed order before 09/02/2022, case management statement due 09/12/2022, and opening brief due 10/03/2022. Melina Brill ProTem Judge - Author
12. 25-Jul-2022 FILED: Notice of Paying Appellee's Filing Fee; Certificate of Service of Notice of Paying Appellee's Filing Fee (Appellee)
13. 29-Jul-2022 RECEIPT No.: 2022-00807 ; \$140.00, Authorization: Ref1:10010361519, Applied to: ARIZONA PUBLIC SERVICE COMPANY - Class B Filing Fee (\$140.00) Paid for: Berry Riddell LLC - By nCourt LLC
14. 12-Aug-2022 FILED: Supplemented Superior Court e-Record with Revised Index of Record [includes ME: Order Signed [08/02/2022]; Corrected Final Decree in Condemnation; ME: Order Signed [08/04/2022]]
15. 7-Sep-2022 FILED: Motion to Continue the Stay of this Appeal (Appellants Pro Per)
16. 8-Sep-2022 FILED: Motion to Continue the Stay of this Appeal with Some Describes the Status of the Mater [sic] (Appellants Pro Per)
17. 9-Sep-2022 ORDERED: Motion to Continue the Stay of this Appeal (Appellants Pro Per) = DENIED. Appellant are reminded that case management statement due 09/12/2022, and opening brief due 10/03/2022. If statement and brief are not timely filed, court will dismiss appeal. Melina Brill ProTem Judge - Author
18. 12-Sep-2022 ORDERED: Motion to Continue the Stay of this Appeal with Some Describes the Status of the Mater [sic] (Appellants Pro Per) = DENIED without prejudice to consideration of new motion to stay if superior court denies, or has denied, a stay request. Melina Brill ProTem Judge - Author
19. 12-Sep-2022 FILED: Case Management Statement Emergency Procedural Request for More Time to Compleat [sic] Due to Life and Death Possibilities with COVID 19 Virus and Motion for More Time (Appellants Pro Per)
20. 14-Sep-2022 ORDERED: Case Management Statement Emergency Procedural Request for More Time to Compleat [sic] Due to Life and Death Possibilities with COVID 19 Virus and Motion for More Time (Appellants Pro Per) = GRANTED. Due date EXTENDED from Monday, 09-12-2022 to Monday, 10-03-2022. If case management statement is not timely filed, court will consider imposing sanctions, which may include dismissing appeal. See ARCAP 25. Opening brief remains due 10/03/2022. Melina Brill ProTem Judge - Author
21. 16-Sep-2022 FILED: Fraudulent Action Made by This Court (Appellants Pro Per)
22. 23-Sep-2022 ORDERED: Taking no action on appellants' filing ["Fraudulent Action Made By This Court."]. FURTHER ORDERED: Pursuant to Eaton Fruit Co. v. California Spray-Chemical Corp., staying appeal until 10/24/2022. Signed order re: ME of 08/18/2022 filed 08/19/2022 due within 10 days after its entry. If appeal reinstated by filing of signed order before 10/24/2022, case management statement due 11/03/2022, and opening brief due 11/23/2022. Hon Kent E Cattani - Author
23. 28-Sep-2022 FILED: Emergency Procedural Request for More Time to Compleat [sic] and File A-Case Management Statement B-Opening Brief (Appellants Pro Per)
24. 30-Sep-2022 ORDERED: Emergency Procedural Request for More Time to Compleat [sic] and File A-Case Management Statement B-Opening Brief (Appellants Pro Per) = DENIED. Melina Brill ProTem Judge - Author
25. 30-Sep-2022 FILED: Supplemented Superior Court e-Record with Revised Index of Record [includes Notice of Appeal New Appeal; Notice of Appeal; Notice; ME: Ruling [09/27/2022]]
26. 7-Nov-2022 FILED: (Untitled) Motion for Extension of Time (Appellant Pro Per)

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27. 15-Nov-2022 ORDERED: Continuing stay of this appeal until 12/14/2022, for purposes set forth in this court's 09/23/2022 stay order. FURTHER ORDERED: Appellants shall file a motion in superior court for a signed order. FURTHER ORDERED: Directing clerk of superior court to transmit a certified copy of ruling within 10 days after its entry, marked for filing in this appeal. FURTHER ORDERED: Stay will be lifted automatically 12/14/2022, unless before that date appellants file a motion to continue stay. If appellants do not file a motion to continue stay and superior court has not entered a signed order, this court may dismiss this appeal. FURTHER ORDERED: If this court has received a signed order before 12/14/2022, case management statement is due 12/27/2022, and opening brief is due 01/13/2023. FURTHER ORDERED: (Untitled) Motion for Extension of Time (Appellant Pro Per) = DENIED as moot. Melina Brill ProTem Judge - Author
28. 30-Nov-2022 FILED: Supplemented Superior Court e-Record with Revised Index of Record (includes copy of signed order)
29. 12-Jan-2023 FILED: Gregory Best's Expedited Motion to Intervene and Request for 30-Day Extension (Intervenor Pro Per)
30. 13-Jan-2023 ORDERED: Denying the request for an expedited ruling. The court will rule on the motion ("Gregory Best's Expedited Motion to Intervene and Request for 30-Day Extension") following expiration of the time for a response and, if applicable, a reply. Melina Brill ProTem Judge - Author
31. 13-Jan-2023 FILED: Motion for Extension of Time for Filing Opening Brief, and Management Statement. Motion for Continue of Stay. Motion for Time Out Due to Deaths in the Family, Motion for Court Order for the Transcript Exparte Hearings/Oral Arguments (Appellant Pro Per)
32. 13-Jan-2023 FILED: This Major Important Missing Recorded and Filed Motion is Being Supplied to this Court for Appeal Consideration [sic] (Motion to Supplement) (Appellant Pro Per)
33. 18-Jan-2023 RECEIPT No.: 2023-00062 ; \$140.00, Authorization: #18014593591, Applied to: GREGORY BEST - Class B Filing Fee (\$140.00) Paid for: - By GREGORY BEST
34. 19-Jan-2023 RECEIPT No.: 2023-00068 ; \$140.00, Authorization: #18014593591, Applied to: GREGORY BEST - Class B Filing Fee (\$140.00) Paid for: Gregory Best - By nCourt LLC (Memo: x-ref 2023-00062)
35. 19-Jan-2023 ORDERED: Motion for Extension of Time for Filing Opening Brief, and Management Statement. Motion for Continue of Stay. Motion for Time Out Due to Deaths in the Family, Motion for Court Order for the Transcript Exparte Hearings/Oral Arguments (Appellant Pro Per) = DENIED. FURTHER ORDERED: Vacating the 12/27/2022 and 01/13/2023 due dates for the case management statement and opening brief. The order ruling on the pending motion to intervene will set due dates to file the case management statement and opening brief. Melina Brill ProTem Judge - Author
36. 19-Jan-2023 VOID RECEIPT No.: 2023-00062 - \$-140.00, Authorization: #18014593591, - Applied to: GREGORY BEST - Class B Filing Fee (\$-140.00) Paid for: - By: GREGORY BEST VOID Reason: x-ref 2023-00068 incorrect paid by.alc
37. 23-Jan-2023 FILED: Response to "This Major Important Missing Recorded and Filed Motion is Being Supplied to This Court for Appeal Consideration (Sic)"; Certificate of Service (Appellee)
38. 23-Jan-2023 FILED: Response to Gregory Best's Expedited Motion to Intervene and Request for 30-Day Extension; Certificate of Service; Exhibit 1; Exhibit 2 (Appellee)
39. 23-Jan-2023 FILED: Notice of Appearance; Certificate of Service (Appellee)
40. 31-Jan-2023 FILED: Notice of No Objection to Gregory Best Intervention. (Appellant Pro Per)
41. 2-Feb-2023 ORDERED: Response to Gregory Best's Expedited Motion to Intervene and Request for 30-Day Extension(Appellee) = GRANTED in part and extending the time to file the response to 02/09/2023. Melina Brill ProTem Judge - Author
42. 6-Feb-2023 FILED: Response to Defendants/Appellants' Repeated Requests for Delay; Certificate of Service (Appellee)
43. 6-Feb-2023 FILED: Reply to "APS's" Response to: "This Major Important Missing Recorded and Filed Motion is Being Supplied to This Court for Appeal Consideration [sic]" (Appellants Pro Per)
44. 6-Feb-2023 FILED: Gregory Best's Reply to Appellee APS Response to Motion to Intervene (Intervenor Pro Per)
45. 6-Feb-2023 FILED: Request/Petition for a Court Order Ordering APS Corp, to Mail Me a Copy of their Filing of About 50 Pages Filed Jan 23 2023 [sic] (Titled Response to Gregory Best's Expedited Motion to Intervene and ...); and for the Court to Allow me 30 Days in Which to Respond to it. (Appellants Pro Per)
46. 8-Feb-2023 ORDERED: Request/Petition for a Court Order Ordering APS Corp, to Mail Me a Copy of their Filing of About 50 Pages Filed Jan 23 2023 [sic] (Titled Response to Gregory Best's Expedited Motion to Intervene and ...); and for the court to allow me 30 days in which to respond to it = GRANTED in part and directing APS to serve Darlene Span with its response to the motion to intervene. FURTHER ORDERED: Denying the extension request. Ms. Span already jointly filed with the other appellants a notice of no objection to the motion to intervene on 01/31/2023, and this court granted an extension until 02/09/2023 to file a response to the motion to intervene. Melina Brill ProTem Judge - Author

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47. 9-Feb-2023 FILED: Motion for Procedural Order (Unable to Comply with Order Directing Service/Denying Extension); Certificate of Service (Appellee)
48. 9-Feb-2023 FILED: Motion to Strike (Appellants Pro Per)
49. 14-Feb-2023 FILED: Response to Motion to Strike; Certificate of Service (Appellee)
50. 14-Feb-2023 ORDERED: Motion for Procedural Order (Unable to Comply with Order Directing Service/Denying Extension) (Appellee) = GRANTED and vacating the portion of the 02/08/2023 order that directs APS to serve Ms. Span with its response. FURTHER ORDERED: Until Ms. Span notifies both the court and APS of her address for service, APS is not required to serve Ms. Span with any filings. Hon Kent E Cattani - Author
51. 14-Feb-2023 ORDERED: This Major Important Missing Recorded and Filed Motion is Being Supplied to this Court for Appeal Consideration [sic] (Motion to Supplement) (Appellant Pro Per) = DENIED. Hon Kent E Cattani - Author
52. 21-Feb-2023 FILED: Returned US Mail, Order Directing Service/Denying Extension dated 02/08/2023, addressed to Darlene Span, Unable to Forward
53. 23-Feb-2023 ORDERED: Motion to Strike (Appellants Pro Per) = DENIED. FURTHER ORDERED: Denying Gregory Best's motion to intervene. FURTHER ORDERED: The opening brief is due by 03/09/2023. If the opening brief is not timely filed, the court will dismiss this appeal. Hon Jennifer M Perkins - Author
54. 3-Mar-2023 FILED: Death Emergency Extension [sic] (Appellants Pro Per)
55. 8-Mar-2023 FILED: Response to "Death Emergency Extension"; Certificate of Service (Appellee)
56. 9-Mar-2023 ORDERED: Death Emergency Extension [sic] (Appellants Pro Per) = GRANTED in part. FURTHER ORDERED: Directing appellants to notify the court by 04/07/2023, whether there is a personal representative for the Estate of Bonnie M. Span who intends to pursue this appeal. No extensions will be granted. If a notice is not timely filed, the court will dismiss Bonnie M. Span from this appeal. FURTHER ORDERED: The opening brief is due by 05/08/2023. If the opening brief is not timely filed, the court will dismiss this appeal. Hon Kent E Cattani - Author
57. 7-Apr-2023 FILED: Motion to Substitute the Personal Representative for Bonnie M. Span (Appellants Pro Per)
58. 11-Apr-2023 FILED: Response to Motion to Substitute The Personal Representative for Bonnie M. Span; Certificate of Service (Appellee)
59. 24-Apr-2023 FILED: Reply to Appellee's Response to Motion to Substitute the Personal Representative for Bonnie M. Span (Appellants Pro Per)
60. 26-Apr-2023 ORDERED: Motion to Substitute the Personal Representative for Bonnie M. Span (Appellants Pro Per) = DENIED. FURTHER ORDERED: Dismissing Bonnie M. Span from this appeal. Appellants are reminded the opening brief is due on 05/08/2023. If the opening brief is not timely filed, the court will dismiss this appeal. Hon Kent E Cattani - Author
61. 8-May-2023 FILED: Appellant's Opening Brief (Appellant Pro Per)
62. 11-May-2023 FILED: 1. Motion to Appeal Deprivation of Rights and Private Property 2. (Request for 60 Day Extension/Pause/Time-out or Hold in Abeyance Due to Plaintiff Death 3. Request for Pro-Bono Program) 4. Mandatory Injunction to Stop Destruction of Building Structures and Personal Property (Appellant Pro Per)
63. 17-May-2023 ORDERED: 1. Motion to Appeal Deprivation of Rights and Private Property (Appellant Pro Per) = DENIED. FURTHER ORDERED: 2. Request for 60 Day Extension/Pause/Time-Out or Hold in Abeyance Due to Plaintiff Death (Appellant Pro Per) = DENIED. FURTHER ORDERED: 3. Request for Pro-Bono Program (Appellant Pro Per) = DENIED. FURTHER ORDERED: 4. Mandatory Injunction to Stop Destruction of Building Structures and Personal Property (Appellant Pro Per) = DENIED. Hon Kent E Cattani - Author
64. 27-Jun-2023 FILED: Plaintiff/Appellee's Answering Brief and Appendix; Certificate of Compliance; Certificate of Service (Appellee)
65. 27-Jun-2023 FILED: Notice of Errata; Certificate of Service (Appellee)
66. 29-Jun-2023 ORDERED: Notice of Errata (Appellee) = DENIED (request to deem answering brief timely filed). FURTHER ORDERED: Accepting the answering brief filed on 06/27/2023. Barbara Vidal Vaught ProTem Judge - Author
67. 17-Jul-2023 FILED: Motion for Reconsideration Motion to Strike (Appellant Pro Per)
68. 19-Jul-2023 ORDERED: Motion for Reconsideration Motion to Strike (Appellant Pro Per) = DENIED. Hon David B Gass - Author
69. 20-Jul-2023 FILED: Notice of Errata (Errata to Motion for Reconsideration to Motion to Strike) (Appellant Pro Per)
70. 20-Jul-2023 FILED: Motion to Vacate Reply Brief Due Date (Appellant Pro Per)

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71. 21-Jul-2023 ORDERED: Motion to Vacate Reply Brief Due Date (Appellant Pro Per) = DENIED. FURTHER ORDERED: Extending the time to file the reply brief from 07/24/2023 to 08/07/2023. If the brief is not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Melina Brill ProTem Judge - Author
72. 2-Aug-2023 FILED: Motion for Extension of Time (Reply Brief) (Appellants Pro Per)
73. 3-Aug-2023 ORDERED: Motion for Extension of Time (Reply Brief) (Appellants Pro Per) = GRANTED in part. Due date EXTENDED from Monday, 08-07-2023 to Monday, 08-28-2023. If the brief is not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Melina Brill ProTem Judge - Author
74. 4-Aug-2023 FILED: Motion to Reject Answering Brief as Non-Compliant (Appellant Pro Per)
75. 7-Aug-2023 ORDERED: Motion to Reject Answering Brief as Non-Compliant (Appellant Pro Per) = DENIED. Melina Brill ProTem Judge - Author
76. 23-Aug-2023 FILED: Proceedual [sic] Ordor [sic] Motion for Extension of Time to File Brief and Affidavid [sic], and to Vacate Due Date of Aug 28th 2023 (Appellant Pro Per)
77. 24-Aug-2023 ORDERED: Proceedual [sic] Ordor [sic] Motion for Extension of Time to File Brief and Affidavid [sic], and to Vacate Due Date of Aug 28th 2023 (Appellant Pro Per) = DENIED. FURTHER ORDERED: The reply brief must be filed by 09/08/2023. If the brief is not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Hon David B Gass - Author
78. 6-Sep-2023 FILED: Notice of Appellee's Opposition to Further Requests for Delay; Certificate of Service (Appellee)
79. 7-Sep-2023 FILED: Emergency Motion for Extension of Time to File Brief and Vacate the Sept [sic] 8 Due Date (Reply Brief) (Appellants Pro Per)
80. 8-Sep-2023 ORDERED: Emergency Motion for Extension of Time to File Brief and Vacate the Sept [sic] 8 Due Date (Reply Brief) (Appellants Pro Per) = DENIED. Hon David B Gass - Author
81. 8-Sep-2023 FILED: Appellant's Reply Brief (Appellant Pro Per)
82. 11-Sep-2023 FILED: Request for Extension of Time (Response to "Corrected Final Judgment in Condemnation") (Appellants Pro Per)
83. 12-Sep-2023 ORDERED: Request for Extension of Time (Response to "Corrected Final Judgment in Condemnation") (Appellants Pro Per) = DENIED. Melina Brill ProTem Judge - Author
84. 27-Sep-2023 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
85. 6-Oct-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
86. 25-Oct-2023 CLNDR: CONFERENCE, Department E, 12-14-23, COURTROOM 1.
87. 6-Feb-2024 MEMORANDUM DECISION (Affirmed) Hon Brian Y Furuya - Author; Hon James B Morse Jr. - Concur; Hon Cynthia J Bailey - Concur
88. 6-Feb-2024 FILED: Decision Distribution Notification
89. 22-Feb-2024 FILED: Motion for Extention [sic] of Time to File a Motion for Reconsideration of Courts Ruling and Request for Medical Leave to its Fullest Extent (Appellants Pro Per)
90. 27-Feb-2024 FILED: Response to Mike Michael's Motion for Extension of Time to File a Motion for Reconsideration; Certificate of Service (Appellee)
91. 5-Mar-2024 ORDERED: Motion for Extention [sic] of Time to File a Motion for Reconsideration of Courts Ruling and Request for Medical Leave to its Fullest Extent (Appellants Pro Per) = DENIED. Hon Brian Y Furuya - Author
92. 6-Mar-2024 FILED: Motion to Nulify [sic] or Strike (Appellants Pro Per)
93. 8-Mar-2024 FILED: Letter, 03/08/2024, Certified Copy of Order dismissing appeal. No physical record to be returned to clerk, Maricopa County Superior Court.
[Vacated per order filed 03/11/2024]
94. 11-Mar-2024 ORDERED: Motion to Nulify [sic] or Strike (Appellants Pro Per) = DENIED. Hon Brian Y Furuya - Author
95. 11-Mar-2024 ORDERED: Vacating the termination letter filed 03/08/2024. Hon David B Gass - Author
96. 12-Mar-2024 FILED: ASC Order filed 03/12/2024 re: extending time for filing Petition for Review to 04/08/2024
97. 11-Apr-2024 FILED: ASC order, 4/11/24, extending the time to file a petition for review to 6/7/24

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98. 14-Jun-2024 FILED: ASC order, 6/14/24, extending the time to file a petition for review to 6/28/24
99. 3-Jul-2024 FILED: Email Notice from ASC re: Petition for Review filed 06/28/24; request for partial record
100. 3-Jul-2024 FILED: ASC Order filed 07/03/2024 re: Document filed on 06/28/2024 shall be treated as a petition for review. FURTHER ORDERED: Appellants shall pay required filing fee or submit completed application for Fee Deferral/Waiver on/before 07/17/2024. This matter is subject to dismissal if filing fee is not paid or completed Fee Deferral/Waiver application is not filed on/before 07/17/2024.