

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0485

IN RE GUARDIANSHIP OF A.K.

Appellate Case Information

Case Filed: 4-Aug-2023

Case Closed:

Dept/Composition

Department C

Hon. Paul J McMurdie
Hon. Maria Elena Cruz
Hon. Cynthia J Bailey

Side 1. In the Matter of the Guardianship of:

A.K.

A Minor.

, Petitioner/Appellant

(Litigant Group) DAISY DANFORTH, et al.

- Daisy Danforth
Jake Danforth

Attorneys for: Petitioner/Appellant

Thomas Jose, Esq. (AZ Bar No. 35257)
Timothy D Keller, Esq. (AZ Bar No. 19844)
Keila Urbach, Esq. (AZ Bar No. 32788)

Side 2. GILA RIVER INDIAN COMMUNITY, Respondent/Appellee

(Litigant Group) GILA RIVER INDIAN COMMUNITY

- Gila River Indian Community

Co-Counsel for: Respondent/Appellee Gila River

Sunshine Manuel, Esq. (AZ Bar No. 31948)
April Olson, Esq. (AZ Bar No. 25281)
Javier G Ramos, Esq. (AZ Bar No. 17442)
Wouter Zwart, Esq. (AZ Bar No. 36546)

(Litigant Group) A.K.

- A. K.

Attorneys for: Respondent/Appellee A.K.

Logan Mussman, Esq. (AZ Bar No. 31717)
Denise Lynn Carroll, Esq. (AZ Bar No. 22138)

Side 3. GOLDWATER INSTITUTE, Amicus Curiae

(Litigant Group) GOLDWATER INSTITUTE

- Goldwater Institute

Attorneys for: Amicus Curiae

Timothy Sandefur, Esq. (AZ Bar No. 33670)

Side 4. LISA JONES, Amicus Curiae

(Litigant Group) LISA JONES

- Lisa Jones

PRO SE

Side 5. TOHONO O'ODHAM NATION/NAVAJO NATION, Amicus Curiae

(Litigant Group) TOHONO O'ODHAM NATION/NAVAJO NATION

- Tohono O'odham Nation
Navajo Nation

Co-Counsel for: Amicus Curiae Tohono/Navajo

Howard M Shanker, Esq. (AZ Bar No. 15547)
Kanani Anderson, Esq. (AZ Bar No. 32050)
Rebecca Cohen, Esq. (AZ Bar No. 39139)
Marissa Leanna Sites, Esq. (AZ Bar No. 27390)
Ethel Billie Branch, Esq. (AZ Bar No. 26717)
Sage Metoxen, Esq. (AZ Bar No. 30707)

Side 6. NATIVE AMERICAN BAR ASSOCIATION, Amicus Curiae

(Litigant Group) NATIVE AMERICAN BAR ASSOCIATION

- Native American Bar Association of Arizona

Attorney for: Amicus Curiae Native American Bar

Patricia F Bohnee, Esq. (AZ Bar No. 20996)

CASE STATUS

Aug 27, 2024...Decision Rendered

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0485

IN RE GUARDIANSHIP OF A.K.

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, JG512607, Guardianship Hearing, Amanda S Chua, Authoring Judge of Order.

2 OPEN DUE DATES

Motion for Reconsideration due Due By: Wednesday, September 11, 2024

Re: OPINION (Vacated, Remanded) Hon Paul J McMurdie - Author; Hon Maria Elena Cruz - Concur; Hon Cynthia J Bailey - Concur in Part; Hon Cynthia J Bailey - Dissent in Part

Petition for Review to ASC due Due By: Thursday, September 26, 2024

Re: OPINION (Vacated, Remanded) Hon Paul J McMurdie - Author; Hon Maria Elena Cruz - Concur; Hon Cynthia J Bailey - Concur in Part; Hon Cynthia J Bailey - Dissent in Part

CASE DECISION

27-Aug-2024 OPINION

Paul McMurdie.....Author
Maria Cruz.....Concur
Cynthia Bailey.....Concur in Part
Dissent in Part

Table with 2 columns: Filed: 27-Aug-2024, Mandate: Decision Disposition. Status: Vacated, Remanded.

77 PROCEEDING ENTRIES

- 1. 10-Aug-2023 FILED: Notice of Appearance (Appellee Gila River Indian Community)
2. 16-Aug-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None
3. 16-Aug-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 7/27/23
4. 17-Aug-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
5. 1-Sep-2023 RECEIPT No.: 2023-00845 ; \$280.00, Check Number: #4711, Applied to: DAISY DANFORTH, et al. - Class A Filing Fee (\$280.00) Paid for: Jeffrey M Zurbriggen PC - By Jeffrey M Zurbriggen Attorney PC
6. 6-Sep-2023 FILED: Notice of Appearance; Certificate of Service (Appellant)
7. 6-Sep-2023 FILED: Case Management Statement (Appellant)
8. 12-Sep-2023 ORDERED: (per Sorensen v. Farmers) staying appeal until 10/12/2023. 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, opening brief due 11/13/2023. Melina Brill ProTem Judge - Author
9. 22-Sep-2023 FILED: Appellee GRIC's Notice of Appearance; Certificate of Service for Appellee GRIC's Notice of Appearance (Appellee GRIC)
10. 28-Sep-2023 RECEIPT No.: 2023-00919 ; \$140.00, Authorization: 71006787257, Applied to: GILA RIVER INDIAN COMMUNITY - Class B Filing Fee (\$140.00) Paid for: Rothstein Donatelli LLP - By nCourt LLC
11. 28-Sep-2023 FILED: Copy of Maricopa County Superior Court Order Filed 09/25/2023 re: Dismissing Guardianship; Untitled (Copy of Certificate of Service for Superior Court Order filed 09/21/2023); Copy of Maricopa County Superior Court Order Filed 09/26/2023 re: Status Conference; Copy of Maricopa County Superior Court Notice of Appointment Filed 09/21/2023 (Appellant)
12. 28-Sep-2023 ORDERED: Continuing the stay of this appeal until 10/19/2023, for the purposes set forth in this court's 09/12/2023 order staying the appeal. FURTHER ORDERED: If this court has received a signed Rule 54(c) order before 10/19/2023, the opening brief is due on 11/20/2023. Melina Brill ProTem Judge - Author
13. 5-Oct-2023 FILED: Copy of Maricopa County Superior Court Order filed 10/03/2023 re: Dismissing the Guardianship; Certificate of Service; Copy of Maricopa County Superior Court Order filed 10/03/2023 re: Striking Minute Entry in Superior Court (Appellant)
14. 5-Oct-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record
15. 18-Oct-2023 ORDERED: Continuing the stay of this appeal until 11/17/2023, for the purposes set forth in this court's 09/12/2023 order staying the appeal, for entry of a Rule 54(c) order. FURTHER ORDERED: If this court has received a signed Rule 54(c) order before 11/17/2023, the opening brief is due on 12/18/2023. Melina Brill ProTem Judge - Author
16. 30-Oct-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record

Court of Appeals, Division One**Civil Appeal****1 CA-CV 23-0485****IN RE GUARDIANSHIP OF A.K.****77 PROCEEDING ENTRIES**

17. 8-Nov-2023 FILED: Copy of Maricopa County Superior Court Order dated 10/18/2023 re: Striking the minute entry dated 09/29/2023; Certificate of Service (Appellant)
18. 18-Dec-2023 FILED: Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
19. 20-Dec-2023 FILED: Reporter's Transcript - 07/20/2023 - Guardianship Hearing (Krystal Parrish) (Appellant)
20. 20-Dec-2023 FILED: Reporter's Transcript - 07/27/2023 - Guardianship Hearing (Krystal Parrish) (Appellant)
21. 26-Jan-2024 FILED: Answering Brief; Certificate of Compliance for Gila River Indian Community's Answering Brief; Certificate of Service for Gila River Indian Community's Answering Brief (Appellee Gila River Indian Community)
22. 26-Jan-2024 FILED: Notice of Appearance; Certificate of Service for Notice of Appearance (Appellee Gila River Indian Community)
23. 26-Jan-2024 FILED: Notice of Change of Counsel; Certificate of Service for Change of Counsel (Appellee Gila River Indian Community)
24. 29-Jan-2024 FILED: Appellee Child's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee A.K.)
[stricken per order filed 03/29/2024]
25. 15-Feb-2024 FILED: Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
26. 20-Feb-2024 FILED: Motion to Strike Appellee Child's Brief as Untimely; Certificate of Service for Gila River Indian Community's Motion to Strike Appellee Child's Brief As Untimely (Respondent/Appellee)
27. 23-Feb-2024 FILED: Request for Oral Argument; Certificate of Service (Appellant)
28. 28-Feb-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
29. 5-Mar-2024 FILED: Response to Motion to Strike Appellee Child's Brief as Untimely; Certificate of Service; Appendix A (to Response to Motion to Strike Appellee Child's Brief as Untimely) (Appellant)
30. 7-Mar-2024 FILED: Motion for Leave to File a Sur-Reply; Certificate of Service for Gila River Indian Community's Motion for Leave to File a Sur-Reply; Exhibit A - Sur Reply; Ordinance GR-03-16 (Appellee Gila River Indian Community)
31. 8-Mar-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record
32. 13-Mar-2024 ORDERED: Request for Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
33. 20-Mar-2024 FILED: Response to Motion for Leave to File Sur-Reply; Certificate of Service (Appellant)
34. 26-Mar-2024 CLNDR: MONTHLY COURT CASE CALENDAR, Department C, 5-15-24, 11:00 am, COURTROOM 1.
35. 27-Mar-2024 FILED: Reply in Support of Motion for Leave to File a Sur-Reply; Certificate of Service for Gila River Indian Community's Reply in Support of Motion for Leave to File a Sur-Reply (Appellee)
36. 29-Mar-2024 ORDERED: Motion to Strike Appellee Child's Brief as Untimely (Respondent/Appellee) = GRANTED and striking the child's brief. FURTHER ORDERED: Motion for Leave to File a Sur-Reply (Appellee Gila River Indian Community) = DENIED. Hon Paul J McMurdie - Author
37. 1-Apr-2024 ORDERED: Amending the short caption in this appeal from "DANFORTH v. GILA RIVER, et al." to "IN RE GUARDIANSHIP OF A.K." Hon Paul J McMurdie - Author
38. 2-Apr-2024 FILED: Return Receipt for Notice of Oral Argument, signed by Tom Jose on 03/27/2024 (Appellant)
39. 11-Apr-2024 ORDERED: Directing the Gila River Indian Community (the "Community") to supplement the certified record with the specified documents by 05/13/2024. If the Community prefers to file the tribal court record under seal, it may do so. Hon Paul J McMurdie - Author
40. 12-Apr-2024 ORDERED: The Gila River Indian Community notify this Court of the name and contact information for A.K.'s guardian by no later than 04/19/2024. FURTHER ORDERED: Placing this appeal in the Court's pro bono program. After the Pro Bono Coordinator identifies a volunteer attorney, the attorney will contact the guardian for A.K. to discuss and agree on the terms of the representation. FURTHER ORDERED: Any objection to the appointment of pro bono counsel must be filed in writing by 04/19/2024. FURTHER ORDERED: Pro bono counsel must file a notice of appearance by 05/13/2024. FURTHER ORDERED: Staying this appeal pending further order of the Court and vacating conference and oral argument scheduled for 05/15/2024. Hon Paul J McMurdie - Author

[order re: placing appeal into pro bono program vacated per order filed 04/15/2024]

Court of Appeals, Division One**Civil Appeal****1 CA-CV 23-0485****IN RE GUARDIANSHIP OF A.K.****77 PROCEEDING ENTRIES**

41. 15-Apr-2024 ORDERED: Removing this appeal from the court's pro bono program. FURTHER ORDERED: Vacating the direction for the Gila River Indian Community to notify this Court of the name and contact information of the guardian for the real party in interest. FURTHER ORDERED: Affirming the stay of this appeal. FURTHER ORDERED: Amending the caption in this appeal to reflect the real party in interest. All future documents filed in this appeal must use the caption shown on this order. Hon Paul J McMurdie - Author
42. 17-Apr-2024 ORDERED: Appellants and Real Party in Interest must file supplemental opening brief addressing issues by 5/17/24. Appellee must file supplemental answering brief by 6/17/24. Appellant and real Party in Interest may file supplemental reply brief by 6/24/24. FURTHER ORDERED: opening and answering briefs are limited to 5000 words. Reply briefs, if any, are limited to 2500 words. Motions for extension of time or word count will not be entertained. FURTHER ORDERED: inviting other interested parties or organizations to file an amicus brief setting forth their positions on any issue presented. A brief supporting positions of the Appellants or Real Party in Interest must be filed no later than 5/17/24. Briefs supporting the Appellee's position must be filed no later than 6/17/24. Amicus brief must be no more than 2500 words. Motions for extension of time or word count will not be entertained. FURTHER ORDERED: lifting the stay, rescheduling the conference for 7/18/24, and the oral argument for 7/18/24 at 10:30 in Courtroom 1. Hon Paul J McMurdie - Author
43. 18-Apr-2024 FILED: Joint Motion to Reset Briefing Schedule to Allow Supplementation of Record; Certificate of Service (Appellant)
44. 18-Apr-2024 ORDERED: Joint Motion to Reset Briefing Schedule to Allow Supplementation of Record (Appellant) = DENIED. Hon Paul J McMurdie - Author
45. 19-Apr-2024 FILED: Motion to Redact A.K.'s Full Name From The Briefs; Certificate of Service for Gila River Indian Community's Motion to Redact A.K.'s Full Name From the Briefs (Appellee Gila River Indian Community)
46. 22-Apr-2024 FILED: Appellee Child's Motion to Compel; Certificate of Service (Appellee A.K.)
47. 22-Apr-2024 ORDERED: Motion to Redact A.K.'s Full Name From The Briefs (Appellee Gila River) = GRANTED. FURTHER ORDERED: All future briefs filed by any party or amicus use only the minor's initials ("A.K."), or a pseudonym, instead of the child's full name. Hon Paul J McMurdie - Author
48. 23-Apr-2024 FILED: Response to Child's Motion to Compel; Certificate of Service for Gila River Indian Community's Response to Child's Motion to Compel (Appellee Gila River Indian Community)
49. 30-Apr-2024 FILED: Return Receipt for Notice of Oral Argument, signed by Denise Carroll on 04/27/2024 (Appellee A.K.)
50. 1-May-2024 ORDERED: Appellee Child's Motion to Compel (Appellee A.K.) = DENIED as moot. Hon Paul J McMurdie - Author
51. 7-May-2024 FILED: Return Receipt Re Oral Argument, signed by Tom Jose, on 4/17/24 (Appellant)
52. 13-May-2024 FILED: Notice of Lodging of Tribal Court Record Under Seal; Certificate of Service for Gila River Indian Community's Notice of Lodging of Tribal Court Record Under Seal (Appellee Gila River Indian Community)
53. 13-May-2024 FILED: Cover Sheet Documents Proposed for Filing Under Seal (Filed Under Seal) (Appellee Gila River Indian Community)
54. 16-May-2024 FILED: Motion for Leave to File Brief of Amicus Curiae & Brief of Amicus Curiae Lisa Jones Successor Legal Guardian for the Minor and Real Party in Interest, A.K.; Certificate of Compliance; Certificate of Service; Exhibit A and Exhibit B (Amicus Curiae) (Exhibits A and B Sealed per orders filed 6/19/24)
55. 17-May-2024 FILED: Supplemental Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
56. 17-May-2024 FILED: Supplemental Brief in Response to the Appellate Court's Request for Additional Briefing on Questions to be Addressed by the Parties in this Matter; Certificate of Compliance; Certificate of Service (Appellee A.K.)
57. 17-May-2024 FILED: Brief Amicus Curiae of Goldwater Institute in Support of Petitioners and Reversal; Certificate of Compliance; Certificate of Service (Amicus Curiae Goldwater Institute)
58. 20-May-2024 ORDERED: Motion for Leave to File Brief of Amicus Curiae & Brief of Amicus Curiae Lisa Jones Successor Legal Guardian for the Minor and Real Party in Interest, A.K. (Amicus Curiae) = GRANTED and accepting the brief. FURTHER ORDERED: Accepting the brief (Amicus Curiae Brief of the Goldwater Institute in Support of Petitioners and Reversal). Hon Paul J McMurdie - Author
59. 17-Jun-2024 FILED: Attorney General's Notice Regarding Invitation to File Amicus Brief; Certificate of Service (Invited Amicus Curiae AG)
60. 17-Jun-2024 FILED: Supplemental Answering Brief; Certificate of Compliance for Gila River Indian Community's Supplemental Answering Brief; Certificate of Service for Gila River Indian Community's Supplemental Answering Brief and Motion to Reconsider Order Accepting Lisa Jones' Brief and Motion to Redact (Appellee)
61. 17-Jun-2024 FILED: Brief Amicus Curiae Of Tohono O'odham Nation And Navajo Nation In Support Of Gila River Indian Community; Certificate of Compliance; Certificate of Service (Amicus Curiae Tohono/Navajo)

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0485

IN RE GUARDIANSHIP OF A.K.

77 PROCEEDING ENTRIES

62. 17-Jun-2024 FILED: Brief of Amicus Curiae Native American Bar Association of Arizona in Support of Appellees; Certificate of Compliance; Certificate of Service (Amicus Curiae Native American Bar Association)
63. 17-Jun-2024 FILED: Motion to Reconsider Order Accepting Lisa Jones' Brief and Motion to Redact; Certificate of Service for Gila River Indian Community's Supplemental Answering Brief and Motion to Reconsider Order Accepting Lisa Jones' Brief and Motion to Redact (Appellee Gila River Indian Community)
64. 18-Jun-2024 FILED: Amended Motion to Reconsider Order Accepting Lisa Jones' Brief and Motion to Redact; Amended Certificate of Service for Gila River Indian Community's Supplemental Answering Brief and Amended Motion to Reconsider Order Accepting Lisa Jones' Brief and Motion to Redact (Appellee Gila River Indian Community)
65. 18-Jun-2024 FILED: Amended Supplemental Answering Brief; Amended Certificate of Compliance for Gila River Indian Community's Amended Supplemental Answering Brief; Amended Certificate of Service for Gila River Indian Community's Supplemental Answering Brief and Amended Motion to Reconsider Order Accepting Lisa Jones' Brief and Motion to Redact (Appellee Gila River)
66. 19-Jun-2024 ORDERED: Motion to Reconsider Order Accepting Lisa Jones' Brief and Motion to Redact (Appellee Gila River Indian Community) = DENIED. FURTHER ORDERED: directing the clerk of this court to seal Exhibit A of Lisa Jones's brief. FURTHER ORDERED: accepting the briefs (Tohono O'odham Nation, Navajo Nation, and the Native American Bar Association of Arizona). FURTHER ORDERED: Gila River Indian Community provide this court with the applicable version of the Children's Code by 7/1/24. FURTHER ORDERED: parties must be prepared to answer question (see order) at oral argument on 7/18/24. Hon Paul J McMurdie - Author
67. 19-Jun-2024 ORDERED: directing the clerk of this court to seal Exhibit B of Lisa Jones's Brief. Hon Paul J McMurdie - Author
68. 24-Jun-2024 FILED: Supplemental Reply Brief; Certificate of Compliance; Certificate of Service (Appellants)
69. 1-Jul-2024 FILED: Notice Of Lodging Of The Gila River Indian Community Children's Code; Certificate Of Service For Notice Of Lodging Of The Gila River Indian Community's Children's Code (Appellee Gila River)
70. 9-Jul-2024 FILED: Return Receipt for Notice of Oral Argument, signed by April E Olson on 04/17/2024 (Appellee Gila River)
71. 18-Jul-2024 FILED: Sign-in Sheet/Case is Under Advisement as of 7/18/24
72. 19-Jul-2024 ORDERED: no later than 10 days from the date of this order, Gila River Indian Community provide this court with the version(s) of the Children's Code in effect at the time of A.K.'s original dependency and the adoption. Hon Paul J McMurdie - Author
73. 29-Jul-2024 FILED: Notice of Lodging of the Gila River Indian Community Children's Code; Certificate of Service for Notice of Lodging of the Gila River Indian Community's Children's Code (Appellee)
[routed to panel 07/30/2024]
74. 31-Jul-2024 FILED: Motion to File Supplemental Tribal Court Records Under Seal; Certificate of Service for Motion to File Supplemental Tribal Court Records Under Seal (Appellee)
75. 1-Aug-2024 ORDERED: Motion to File Supplemental Tribal Court Records Under Seal (Appellee) = DENIED. Hon Paul J McMurdie - Author
76. 27-Aug-2024 OPINION (Vacated, Remanded) Hon Paul J McMurdie - Author; Hon Maria Elena Cruz - Concur; Hon Cynthia J Bailey - Concur in Part; Hon Cynthia J Bailey - Dissent in Part
77. 27-Aug-2024 FILED: Decision Distribution Notification