

Court of Appeals, Division One

Juvenile

1 CA-JV 22-0227

IN RE TERM OF PARENTAL RIGHTS AS TO M.N.

Appellate Case Information

Case Filed: 26-Sep-2022

Case Closed:

Dept/Composition

Department F

Hon. Jennifer B Campbell
Hon. Kent E Cattani
Hon. Anni Hill Foster

Side 1. DELVAGUS I., Appellant

(Litigant Group) DELVAGUS I.

- Delvagus I.

Attorneys for: Appellant

Chad Joshua Winger, Esq. (AZ Bar No. 22767)

Side 2. ADOPTION CHOICES OF ARIZONA, M.N., Appellee

(Litigant Group) ADOPTION CHOICES OF ARIZONA

- Adoption Choices of Arizona

Attorneys for: Appellee

Philip McCarthy, Jr, Esq. (AZ Bar No. 13059)

(Litigant Group) M.N.

- M. N.

Attorneys for: Appellee

Sandra L J Diehl, Esq. (AZ Bar No. 13567)

CASE STATUS

May 30, 2024....Pending in ASC

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: CON, S0300SV202100003, Termination of Parental Rights, Angela R Kircher, Authoring Judge of Order.

Table with 2 columns: DESCENDENT CASE(S), Cause/Charge/Class. Row 1: ASC, CV-24-0114-PR.

CASE DECISION

30-Apr-2024 OPINION

Anni Foster.....Author
Jennifer Campbell.....Concur
Kent Cattani.....Concur

Filed: 30-Apr-2024 Mandate:

Table with 1 column: Decision Disposition. Row 1: Reversed, Remanded.

47 PROCEEDING ENTRIES

- 1. 26-Sep-2022 FILED: Notice of Appeal from Coconino County Superior Court filed 08/23/22.
2. 26-Sep-2022 FILED: E-Record on Appeal: Instrument/Minute Entries: Combined Exhibits: None
3. 30-Sep-2022 FILED: Reporter's Transcript - 06/20/2022 - Severance Trial (Amanda J. Willey)
4. 3-Oct-2022 FILED: Appellate Clerk Notice (606(b))
5. 6-Oct-2022 FILED: Supplemented Superior Court e-Record with Revised Index of Record
6. 10-Oct-2022 FILED: Notice of Change of Firm and Address; Certificate of Service (Appellee)
7. 25-Oct-2022 FILED: Notice of Appearance; Certificate of Service (Appellant)
8. 27-Oct-2022 FILED: Court Reporter Cori Brickey Request for Extension of Time
9. 28-Oct-2022 ORDERED: Court Reporter Cori Brickey Request for Extension of Time = GRANTED. Due Dates EXTENDED to 11/14/2022 for Transcripts dated 05/31/2022, 06/01/2022. Amber E Pershon ProTem Judge - Author

Court of Appeals, Division One**Juvenile****1 CA-JV 22-0227****IN RE TERM OF PARENTAL RIGHTS AS TO M.N.****47 PROCEEDING ENTRIES**

10. 2-Nov-2022 FILED: Reporter's Transcript - 05/31/2022 - Temporary Order Hearing (Cori Brickey)
11. 2-Nov-2022 FILED: Reporter's Transcript - 06/01/2022 - Contested Severance Trial (Cori Brickey)
12. 9-Nov-2022 FILED: Motion To Suspend Appeal and Revest Jurisdiction for Trial Court To Consider Ineffective Assistance of Counsel and Correct the Record; Certificate of Service; Courtesy Copy, Motion for Relief from Judgment for Ineffective Assistance of Counsel, filed in Coconino County Superior Court (Appellant)
13. 14-Nov-2022 FILED: Appellee's Response and Opposition of Appellant's Motion to Suspend Appeal and Revest Jurisdiction for Trial Court to Consider Ineffective Assistance of Counsel and Correct the Record; Certificate of Service (Appellee)
14. 14-Dec-2022 ORDERED: Motion To Suspend Appeal and Revest Jurisdiction for Trial Court To Consider Ineffective Assistance of Counsel and Correct the Record (Appellant) = GRANTED/ staying this appeal until 12/30/2022. FURTHER ORDERED: re-vesting jurisdiction in the Coconino County Superior Court and authorizing that court to rule on any motions made by the parties regarding the above matters. FURTHER ORDERED: directing the clerk of the superior court to transmit a certified copy of the court's rulings to this court by 01/13/2023. FURTHER ORDERED: the stay will be lifted automatically on 01/17/2023. Hon Maria Elena Cruz - Author
15. 3-Jan-2023 FILED: Motion To Extend Stay 20 Days To Correct The Record And To Resolve Ineffective Assistance Of Counsel Issue; Certificate of Service (Appellant)
16. 4-Jan-2023 ORDERED: Motion To Extend Stay 20 Days To Correct The Record And To Resolve Ineffective Assistance Of Counsel Issue (Appellant) = GRANTED/ staying this appeal to 02/06/2023. FURTHER ORDERED: re-vesting jurisdiction in the Coconino County Superior Court and authorizing that court to rule on any motions made by the parties regarding the above matters. FURTHER ORDERED: directing the clerk of the superior court to transmit a certified copy of the court's rulings to this court by 02/06/2023. FURTHER ORDERED: the stay will be lifted automatically on 02/10/2023. Amber E Pershon ProTem Judge - Author
17. 1-Feb-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record (Includes Order Re: Motion for Relief from Judgment for Ineffective Assistance of Counsel, filed 01/27/2023)
18. 1-Feb-2023 FILED: Courtesy certified copy, Coconino County Superior Court, dated 01/27/2023, re: Order Re: Motion for Relief from Judgment for Ineffective Assistance of Counsel
19. 14-Feb-2023 FILED: Additional Record on Appeal:
Physical Exhibits
Hearing Date: 05/31/2022 - LIST # 1 2 3a 4 6 7 8 9 10 11 12 13 14
Hearing Date: 06/01/2022 - LIST # 26 27 (CD, USB drive)
Hearing Date: 06/20/2022 - LIST # 16 17 18 19 20 21 28 in a Box
20. 15-Feb-2023 FILED: Notice of Completion of Record
21. 15-Feb-2023 FILED: Rule 604(D)(1), Ariz. R. Juv. Ct., Motion to Supplement the Record; Certificate of Service; Reporter's Transcript - 03/28/2022 - Contested Severance Trial (Oral Argument) (Cori Brickey) (Appellant)
22. 16-Feb-2023 FILED: Motion for Extension of Time to File Opening Brief; Certificate of Service Motion for Extension to File Opening Brief (Appellant)
23. 17-Feb-2023 ORDERED: Rule 604(D)(1), Ariz. R. Juv. Ct., Motion to Supplement the Record (Appellant) = GRANTED/ including the transcript of proceedings held on 03/28/2022 submitted with appellant's motion. Amber E Pershon ProTem Judge - Author
24. 17-Feb-2023 ORDERED: Motion for Extension of Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 03-07-2023 to Monday, 04-03-2023. The court will not grant any further extension absent extraordinary circumstances. Amber E Pershon ProTem Judge - Author
25. 3-Apr-2023 FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
26. 3-Apr-2023 FILED: Motion to Exceed Word Limit in Opening Brief; Certificate of Service (Appellant)
27. 4-Apr-2023 ORDERED: Motion to Exceed Word Limit in Opening Brief (Appellant) = GRANTED/ accepting the opening brief filed on 04/03/2023. Amber E Pershon ProTem Judge - Author
28. 19-Apr-2023 FILED: Motion to Extend Time for Filing Answering Brief; Certificate of Service (Appellee)
29. 20-Apr-2023 ORDERED: Motion to Extend Time for Filing Answering Brief (Appellee) = GRANTED. Due date EXTENDED from Monday, 04-24-2023 to Thursday, 05-25-2023. The court will not grant any further extension absent extraordinary circumstances. Amber E Pershon ProTem Judge - Author
30. 21-Apr-2023 FILED: Motion to Extend Time for Filing Answering Brief; Certificate of Service (Appellee Child)
31. 25-Apr-2023 ORDERED: Motion to Extend Time for Filing Answering Brief (Appellee Child) = GRANTED/ extending the time to file appellee M.N.'s answering brief to 05/25/2023. The court will not grant any further extension absent extraordinary circumstances. Amber E Pershon ProTem Judge - Author

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32. 17-May-2023 FILED: Motion to Exceed Word Limitations (Motion to File Consolidated Answering Brief); Certificate of Service (Appellees)
33. 18-May-2023 ORDERED: Motion to Exceed Word Limitations (Motion to File Consolidated Answering Brief) (Appellees) = GRANTED. Appellees M.N. and Adoption Choices of Arizona may file a consolidated answering brief that does not exceed 9,000 words. Counsel is reminded that the answering brief is due by 05/25/2023. Amber E Pershon ProTem Judge - Author
34. 24-May-2023 FILED: Appellees' Answering Brief; Appellees' Certificate of Compliance; Appellees' Certificate of Service (Appellee Adoption Choices of Arizona and Appellee Child)
35. 26-May-2023 FILED: Motion for Extension to File Reply Brief; Certificate of Service Motion for Extension to File Reply Brief (Appellant)
36. 30-May-2023 CLNDR: CONFERENCE, Department F, 8-8-23, COURTROOM 1.
37. 31-May-2023 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
38. 31-May-2023 ORDERED: Motion for Extension to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Thursday, 06-08-2023 to Wednesday, 06-21-2023. No further extensions will be granted. Hon Jennifer B Campbell - Author
39. 1-Jun-2023 FILED: Supplemented Superior Court e-Record with Revised Index of Record (S0300SV202100003)
40. 21-Jun-2023 FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
41. 30-Apr-2024 OPINION (Reversed, Remanded) Hon Anni Hill Foster - Author; Hon Jennifer B Campbell - Concur; Hon Kent E Cattani - Concur
42. 30-Apr-2024 FILED: Decision Distribution Notification
43. 30-Apr-2024 FILED: Notice of Juvenile Rule 609
44. 13-May-2024 FILED: Appellees' Notice of Intent to File Petition for Review; Certificate of Service (Appellee)
45. 28-May-2024 FILED: ASC Order filed 05/28/2024 re: the motion is denied without prejudice to Appellee's ability to file a motion in compliance with ARCAP 6(b). This matter is subject to dismissal if a compliant motion or petition for review is not filed by 06/04/2024.
46. 30-May-2024 FILED: Email Notice from ASC re: Petition for Review filed 05/30/24; request for partial record
47. 31-May-2024 FILED: Letter forwarding partial record to Arizona Supreme Court