

Arizona Supreme Court
Civil Petition for Review - Special Action

CV-24-0091-PR

GABRIEL GARIBAY et al v HON. JOHNSON/FOX

Appellate Case Information

Case Filed: 29-Apr-2024
 Case Closed:

Dept/Composition

En Banc
 Hon. Ann A. Scott Timmer
 Hon. John R Lopez
 Hon. Clint Bolick
 Hon. James P Beene
 Hon. William G Montgomery
 Hon. Kathryn H. King
 Hon. Michael D Peterson

Side 1. GABRIEL GARIBAY; DEBORAH MARTINEZ-GARIBAY; AND PIMA COUNTY, Petitioner

(Litigant Group) GABRIEL GARIBAY; DEBORAH MARTINEZ-GARIBAY; AND PIMA COUNTY

- Gabriel Garibay
- Deborah Martinez-Garibay
- Pima County

Attorneys for: Petitioner
 Andrew J Petersen, Esq. (AZ Bar No. 16699)

Side 2. HON. KELLIE JOHNSON, JUDGE OF THE SUPERIOR COURT OF THE STATE OF ARIZONA, IN AND FOR THE COUNTY OF PIMA, Respondent Judge

(Litigant Group) HON. KELLIE JOHNSON, JUDGE OF THE SUPERIOR COURT OF THE STATE OF ARIZONA, IN AND FOR THE COUNTY OF PIMA

- Hon. Kellie L Johnson

Attorneys for: Respondent

Side 3. WILLIAM FOX, THE SURVIVING SPOUSE OF ANGELA FOX, DECEASED, INDIVIDUALLY AND ON BEHALF OF ALL THOSE ENTITLED BY LAW TO RECOVER FOR THE DEATH OF ANGELA FOX, Real Party in Interest

(Litigant Group) WILLIAM FOX, THE SURVIVING SPOUSE OF ANGELA FOX, DECEASED, INDIVIDUALLY AND ON BEHALF OF ALL THOSE ENTITLED BY LAW TO RECOVER FOR THE DEATH OF ANGELA FOX

- William Fox

Attorneys for: Real Party in Interest
 Thomas A Zlaket, Esq. (AZ Bar No. 1819)
 David L Abney, Esq. (AZ Bar No. 9001)
 Robert M Grabb, Esq. (AZ Bar No. 9464)
 John J Kastner, Esq. (AZ Bar No. 21529)
 Marco B Mercaldo, Esq. (AZ Bar No. 20241)
 Carlo Mercaldo, Esq. (AZ Bar No. 23361)

(Litigant Group) ARIZONA CONSTABLE OF ETHICS

- Arizona Constable of Ethics

Attorneys for: Real Party in Interest

CASE STATUS

Sep 10, 2024....At Issue	Sep 10, 2024....Oral Argument Granted
Aug 19, 2024....Continued	Apr 29, 2024.....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
2 CA 2 CA-SA 23-0091					
↔ PIM C20231936			Kellie L Johnson, Judge on PC Comments: (none)		

10 PROCEEDING ENTRIES

- 29-Apr-2024 FILED: Real Party in Interest's Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Real Party Fox)
- 1-May-2024 FILED: Record From CofA: Link to Electronic Record
- 8-May-2024 RECEIPT No.: 2024-00103 ; \$280.00, Authorization: 8211778521910769, Applied to: WILLIAM FOX, THE SURVIVING SPOUSE OF ANGELA FOX, D - Class A Filing Fee (\$280.00) Paid for: WILLIAM FOX, THE SURVIVING SPOUSE OF ANGELA FOX, DECEASED, INDIVIDUALLY AND ON BEHALF OF ALL THOSE ENTITLED BY LAW TO RECOVER FOR THE DEATH OF ANGELA FOX - By nCourt LLC
- 29-May-2024 FILED: Response to Petition for Review; Certificate of Service; Certificate of Compliance (Petitioners Garibay, et al.)
- 29-May-2024 FILED: Appendix; Certificate of Service (Petitioners Garibay, et al.)

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10 PROCEEDING ENTRIES

6. 5-Jun-2024 RECEIPT No.: 2024-00135 ; \$140.00, Authorization: 8387911178335992, Applied to: GABRIEL GARIBAY; DEBORAH MARTINEZ-GARIBAY; AND PIM - Overpayment Class B (\$140.00) Paid for: GABRIEL GARIBAY; DEBORAH MARTINEZ-GARIBAY; AND PIMA COUNTY - By nCourt LLC
7. 9-Jul-2024 FILED: Return of Payment in the amount of \$140.00, State of Arizona Warrant No. 113999 dated 7/5/2024 to Humphrey & Petersen PC for "Response to Petition for Review" filed by Petitioners Garibay, et al., (See Dkt No. 4)
8. 19-Aug-2024 ORDERED: Real Party in Interest's Petition for Review = CONTINUED.
9. 10-Sep-2024 ORDERED: Real Party in Interest's Petition for Review = GRANTED as to this rephrased issue:

"Does judicial immunity preclude application of the liability provisions of A.R.S. § 11-449 to a constable for "any misconduct in the service or execution" of a writ of restitution?"

FURTHER ORDERED: The case shall be set for oral argument.

FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than September 30, 2024. Any amicus briefs are due on or before October 15, 2024 and any responses to amicus briefs are due on or before November 4, 2024. Any amicus briefs or responses may not exceed 20 pages in length.
10. 19-Sep-2024 NOTICE OF ORAL ARGUMENT: Set for Thursday, November 21, 2024 at 10:15 A.M. at Eastern Arizona College, Thatcher, Arizona. [twenty (20) minutes per side]