

Arizona Supreme Court

Habeas Corpus

HC-24-0006

ROGER DARRYL WALDREP v STATE OF ARIZONA

Appellate Case Information

Case Filed: 24-Jun-2024 Archive on: 12-Sep-2034 (planned)
Case Closed: 12-Sep-2024

Dept/Composition

Side 1. ROGER DARRYL WALDREP, Petitioner

(Litigant Group) ROGER DARRYL WALDREP

- Roger Darryl Waldrep

PRO SE

Side 2. STATE OF ARIZONA, Respondent

(Litigant Group) STATE OF ARIZONA

- State of Arizona

CASE STATUS

Sep 12, 2024....Case Closed

Sep 12, 2024....Decision Rendered

PREDECESSOR CASE(S)

MAR CR2013-457772-001 Cause/Charge/Class Judgment/Sentence Judge, Role <Comments> Trial Dispo

CASE DECISION

12-Sep-2024 ORDER

* On May 8, 2024, in case number M-24-0004 (Waldrep v. State), this Court issued an order that reviewed the procedural history of Petitioner Waldrep's no contest plea and five post-conviction relief petitions. In that order, the Court dismissed Petitioner

Filed: 12-Sep-2024

Mandate:

Decision Disposition

Denied

Robert Brutinel

4 PROCEEDING ENTRIES

- 1. 24-Jun-2024 FILED: Ariz. Supreme Court Rule 1; Application for Issuance of Writ Under Original Jurisdiction and Motion for Mandatory Evidentiary Hearing to Disclose Brady Materials (Petitioner Waldrep, Pro Se)
2. 24-Jun-2024 FILED: Motion to Stay Rule 1 Habeas Corpus Proceeding Pending Completion of Mandatory Evidentiary Hearing for Production of Brady Records (Petitioner Waldrep, Pro Se)
3. 3-Jul-2024 FILED: Motion to Stay Rule 1 Habeas Corpus Proceeding Pending Completion of Mandatory Evidentiary Hearing for Production of Brady Records (Petitioner Waldrep, Pro Se)

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4 PROCEEDING ENTRIES

4. 12-Sep-2024 On May 8, 2024, in case number M-24-0004 (Waldrep v. State), this Court issued an order that reviewed the procedural history of Petitioner Waldrep's no contest plea and five post-conviction relief petitions. In that order, the Court dismissed Petitioner's Motion Invoking A.R.S. Title 12, Art. 1, § 12-2001 Certiorari on Judgment: Jurisdiction (Good Cause and in Good Faith) without prejudice to Petitioner seeking appropriate relief in the superior court in the first instance and denied as moot Petitioner's Motion Invoking Law Title 12 A.R.S. Art. 1 Section 12-2002 Certiorari: Grant of Writ (Good Cause and in Good Faith).

On June 4, 2024, in case number M-24-0014 (Waldrep v. Hon Sinclair/State), this Court issued a similar order again reviewing the procedural history of proceedings. In that order, the Court dismissed Petitioner's Motion Invoking Title 12 A.R.S. § 12-2021; § 12-2022; § 12-2023 "Application for Alternative Writ of Mandamus" (Good Cause and in Good Faith) without prejudice to Petitioner seeking appropriate relief in the superior court in the first instance and denied as moot five additional motions filed by Petitioner.

On June 24, 2024, Petitioner initiated the instant matter by filing pleadings entitled Arizona Supreme Court Rule 1; Application for Issuance of Writ Under Original Jurisdiction and Motion for Mandatory Evidentiary Hearing to Disclose Brady Materials and Motion to Stay Rule 1 Habeas Corpus Proceeding Pending Completion of Mandatory Evidentiary Hearing for Production of Brady Records. Subsequently, on July 3, 2024, Petitioner again filed his Motion to Stay Rule 1 Habeas Corpus Proceeding Pending Completion of Mandatory Evidentiary Hearing for Production of Brady Records.

Petitioner's instant "Application for Issuance of Writ [of Habeas Corpus]" raises various challenges to his convictions and sentences alleging violations of his constitutional rights. He specifically claims that the disclosure requirements pursuant to Brady v. Maryland, 373 U.S. 83 (1963) were not complied with prior to entry of his no contest plea pursuant to a plea agreement.

The Court repeats here, as it stated in its May 8, 2024 order in M-24-0004 and its June 4, 2024 order in M-24-0014, that Rule 33 procedures apply to such claims. See Ariz. R. Crim. P. 33; A.R.S. § 13-4233. Petitioner's claims must be presented initially to the superior court, and when a final decision is entered, a party may file a timely petition for review in the court of appeals. See Ariz. R. Crim. P. 33.16. After a decision by the court of appeals, Ariz. R. Crim. P. 33.16(l) allows for the filing of a timely petition for review in this Court.

Additionally, Petitioner's Arizona Supreme Court Rule 1; Application for Issuance of Writ Under Original Jurisdiction and Motion for Mandatory Evidentiary Hearing to Disclose Brady Materials fails to state a sufficient reason for seeking relief initially from this Court instead of the superior court. See Ariz. R. Sup. Ct. 1(b)(1); A.R.S. § 12-2101(A)(11). Furthermore, Petitioner's claim of a right to a "mandatory evidentiary hearing pursuant to Rule 32" is without basis in the law. See also Ariz. R. Crim. P. 32, 33.

Pursuant to Ariz. R. Crim. P. 33.13(a) a "defendant is entitled to a hearing to determine issues of material fact and has the right to be present and to subpoena witnesses for the hearing." (Emphasis added). See also Ariz. R. Crim. P. 32.13(a). The superior court has repeatedly held that Petitioner's claims are untimely, precluded, and fail to present any issues of material fact (i.e., are not colorable) under Ariz. R. Crim. P. 33 and Ariz. R. Crim. P. 32. The court of appeals has agreed. We have as well. See Arizona Supreme Court No. CR-22-0150-PR and CR-23-0318-PR.

Petitioner's continuing petitions, motions, notices, and the like fail to comply with court rules and continue to raise undeveloped, meritless, and precluded arguments. As recognized in Madison v. Groseth, 230 Ariz. 8, 14 ¶ 17 (App. 2012), in such circumstances the courts may discourage vexatious litigation—including that initiated by pro per criminal defendants—by finding that a defendant is a vexatious litigant and determining whether to issue an appropriate pre-filing limitations order.

Therefore, upon consideration,

IT IS ORDERED that Petitioner's Arizona Supreme Court Rule 1; Application for Issuance of Writ Under Original Jurisdiction and Motion for Mandatory Evidentiary Hearing to Disclose Brady Materials is dismissed without prejudice to Petitioner seeking appropriate relief in the superior court in the first instance. See Ariz. R. Crim. P. 33.

IT IS FURTHER ORDERED that Petitioner's Motion to Stay Rule 1 Habeas Corpus Proceeding Pending Completion of Mandatory Evidentiary Hearing for Production of Brady Records is denied as moot.

IT IS FURTHER ORDERED that in the event the defendant initiates further proceedings, the superior court may in its discretion place Petitioner on notice that it may declare petitioner a vexatious litigant and enter an appropriate order limiting future proceedings. See Madison v. Groseth, 230 Ariz. 8, 14 ¶ 17 (App. 2012) (citing Acker v. CSO Chevira, 188 Ariz. 252, 254, 934 P.2d 816, 818 (App. 1997) (defining a court's inherent authority as "such powers as are necessary to the ordinary and efficient exercise of jurisdiction"), and De Long v. Hennessey, 912 F.2d 1144, 1147 (9th Cir. 1990) (recognizing strong precedent establishing inherent authority of federal courts "to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances").

IT IS FURTHER ORDERED closing case number HC-24-0006.

IT IS FURTHER ORDERED that no further filings will be accepted in this matter. (Hon. Robert Brutinel)