

Arizona Supreme Court
Miscellaneous Special Action

M-24-0027

STATE OF ARIZONA v JOHN LEO DAVIS

Appellate Case Information

Case Filed: **22-Jul-2024** Archive on: 16-Sep-2034 (planned)
Case Closed: **16-Sep-2024**

Dept/Composition

Side 1. STATE OF ARIZONA, Respondent

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Side 2. JOHN LEO DAVIS, Petitioner

(Litigant Group) JOHN LEO DAVIS

- John Leo Davis

PRO SE

CASE STATUS

Sep 16, 2024....Case Closed

Sep 16, 2024....Decision Rendered

PREDECESSOR CASE(S)

	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CR2015-114088-001				

CASE DECISION

16-Sep-2024 ORDER

* On July 22, 2024, Petitioner John Leo Davis filed an Application for Issuance of Writ of Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to A.R.S. § 13-4037(A), (B) and an Affidavit/Declaration in Support of Application for I

Filed: **16-Sep-2024**

Mandate:

Decision Disposition

Dismissed Without Prejudice

Robert Brutinel

4 PROCEEDING ENTRIES

- 22-Jul-2024 FILED: Application for Issuance of Writ for Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to ARS §§ 13-4037(A) and (B) (Petitioner Davis, Pro Se)
- 22-Jul-2024 FILED: Affidavit/Declaration in Support of Application for Issuance of Writ for Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to ARS §§ 13-4037(A) and (B) (Petitioner Davis, Pro Se)
- 30-Jul-2024 FILED: [Amended] Application for Issuance of Writ for Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to ARS §§ 13-4037(A) and (B) (Petitioner Davis, Pro Se)

Arizona Supreme Court
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STATE OF ARIZONA v JOHN LEO DAVIS

4 PROCEEDING ENTRIES

4. 16-Sep-2024 On July 22, 2024, Petitioner John Leo Davis filed an Application for Issuance of Writ of Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to A.R.S. § 13-4037(A), (B) and an Affidavit/Declaration in Support of Application for Issuance of Writ of Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to A.R.S. § 13-4037(A), (B).

On July 30, 2024, Petitioner filed an [Amended] Application for Issuance of Writ of Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to A.R.S. § 13-4037(A), (B).

Petitioner contends that the superior court entered an illegal sentence pursuant to A.R.S. § 13-710 following his guilty plea to second degree murder under A.R.S. § 13-1104. He argues that his plea agreement stated that he would be sentenced in accordance with a dangerous offense under A.R.S. § 13-704. Petitioner asserts that “had [he] known that He would be receiving the maximum sentence under A.R.S. 13-710, he would have rejected the Plea Agreement because [he] would not have agree to be sentenced to flat time, without the possibility of commutation of his sentence by the Executive Clemency Board and Governor.” Amended Application, at 16-17. Petitioner contends that this Court is required “to correct all illegal sentences” pursuant to A.R.S. § 13-4037(A).

To the contrary, as Petitioner observes, because he pleaded guilty, he is not entitled to appeal his conviction or sentence under A.R.S. § 13-4031 et seq. Petitioner’s claims must be presented initially, pursuant to Ariz. R. Crim. P. 33, 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; see also A.R.S. § 13-4231 et seq. 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.

Furthermore, Petitioner is represented by counsel, who has properly filed a Rule 33 petition in the superior court. The superior court summarily denied Petitioner’s initial Rule 33 petition on June 3, 2024, and Petitioner’s counsel filed a timely petition for review in the court of appeals on August 16, 2024. See Court of Appeals, Division One, No. 1 CA-CR 24-0457 PRPC.

Petitioner’s [Amended] Application for Issuance of Writ of Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to A.R.S. § 13-4037(A), (B) and Affidavit/Declaration in Support of Application for Issuance of Writ of Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to A.R.S. § 13-4037(A), (B), although present an argument pursuant to Ariz. R.P. Spec. Act. 1(b)(1), fail 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).
Therefore,

IT IS ORDERED that Petitioner’s [Amended] Application for Issuance of Writ of Correction of Illegal Sentence and Reduction of Excessive Sentence Pursuant to A.R.S. § 13-4037(A), (B) is dismissed without prejudice to Petitioner seeking appropriate relief in the superior court in the first instances.

IT IS FURTHER ORDERED closing case number M-24-0027.

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