

**Court of Appeals, Division One**

**Criminal**

**1 CA-CR 15-0435**

**STATE v. GARCIA**

**Appellate Case Information**

Case Filed: 29-Jun-2015  
Case Closed:

**Dept/Composition**

**Department E**  
Hon. Samuel A Thumma  
Hon. Patricia A Orozco  
Hon. Michael J Brown

**Side 1. STATE OF ARIZONA, Appellee**

(Litigant Group) STATE OF ARIZONA

- State of Arizona

**Attorneys for: Appellee**

Eric Knobloch, Esq. (AZ Bar No. 30269)

**Side 2. EVER GERARDO GASTELUM GARCIA, Appellant**

(Litigant Group) EVER GERARDO GASTELUM GARCIA

- Ever Gerardo Gastelum Garcia

**Attorneys for: Appellant**

Jeffrey L Force, Esq. (AZ Bar No. 18778)

**CASE STATUS**

Nov 28, 2016....Assigned

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR2012-128983-001	See File	See File	Bruce R Cohen, Sentencing	JURY	

**CALENDAR**

Wednesday MONTHLY COURT CASE CALENDAR

11-Jan-2017 Department E; COURTROOM 2

**75 PROCEEDING ENTRIES**

1. 29-Jun-2015 FILED: Notice of Appeal from Maricopa County Superior Court filed 06/18/15. Notification sent to Court Reporters dated 06/26/2015.
2. 20-Jul-2015 FILED: Courtesy Copy of Designation of Record for Appeal Filed in Superior Court (Appellant)
3. 20-Jul-2015 ORDERED: Court Reporter Gail Ferguson transcripts dated 2/18/15, 2/23/15, 2/24/15, 2/25/15, 2/26/15, 3/2/15, 3/3/15, 3/16/15, 3/17/15, 3/18/15, 3/24/15, 3/25/15, 3/26/15, 5/29/15 due 8/19/15. Hon Samuel A Thumma - Author
4. 20-Jul-2015 ORDERED: Court Reporter Lydia Estrada-Gray transcript dated 3/4/15 due 8/19/15. Hon Samuel A Thumma - Author
5. 20-Jul-2015 ORDERED: Court Reporter Kristi Week transcript dated 2/10/15 due 8/19/15. Hon Samuel A Thumma - Author
6. 20-Jul-2015 ORDERED: Ken Crenshaw transcript dated 1/27/15 due 8/19/15. Hon Samuel A Thumma - Author
7. 20-Jul-2015 ORDERED: Court Reporter Crystal Hereford transcript dated 12/1/14 due 8/19/15. Hon Samuel A Thumma - Author
8. 20-Jul-2015 ORDERED: Court Reporter Jane Westlund transcripts dated 9/15/14, 10/2/14, 12/3/14 due 8/19/15. Hon Samuel A Thumma - Author
9. 20-Jul-2015 ORDERED: Court Reporter Marmie Guimont transcript dated 8/25/14 due 8/19/15. Hon Samuel A Thumma - Author
10. 20-Jul-2015 ORDERED: Court Reporter Linda Lopez transcripts dated 5/16/14, 7/8/14 due 8/19/15. Hon Samuel A Thumma - Author
11. 20-Jul-2015 ORDERED: Court Reporter April Hunt transcripts dated 4/3/14, 3/3/15, 3/17/15 due 8/19/15. Hon Samuel A Thumma - Author

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12. 20-Jul-2015 ORDERED: Court Reporter Marla Arnold transcript dated 2/25/14 due 8/19/15. Hon Samuel A Thumma - Author
13. 20-Jul-2015 ORDERED: Court Reporter Kimberly McAndrews transcript dated 1/18/13 due 8/19/15. Hon Samuel A Thumma - Author
14. 20-Jul-2015 ORDERED: Court Reporter Barbara Stockford on behalf of Brenda Brown transcripts dated 10/12/12, 5/22/13 due 9/3/15. Hon Samuel A Thumma - Author
15. 21-Jul-2015 ORDERED: Court Reporter Scott Coniam transcripts dated 1/29/14, 3/18/15 due 8/19/15. Hon Samuel A Thumma - Author
16. 28-Jul-2015 FILED: Reporter's Transcript - 10/12/2012 - Oral Argument (Jovanna Roman for Brenda Brown)
17. 30-Jul-2015 FILED: Reporter's Transcript of Proceedings-3/4/2015-Jury Trial (Lydia Estrada-Gray)
18. 30-Jul-2015 FILED: Reporter's Transcript - 1/27/15 - (Janice Penfield)
19. 31-Jul-2015 FILED: Additional Record on Appeal  
Exhibits:  
Hearing Date 05/16/14 - LIST # 1 2 3 4 5 6 In Manila Envelope.  
Hearing Date 02/10/15 - LIST # 1 2 3 4 5 In Manila Envelope.  
Hearing Date 02/23/15 - LIST # 1 1.001 2 3 4 5 6 7 8 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34  
35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 66 67 68 69 84 87 104 105 109 112  
113 114 115 120 139 140 141 142 143 144 156 160 168 169 170 173 174 175 176 177 178 179 180 183 184 185 186 187 188  
189 190 191 192 193 194 195 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 In Manila Envelope.  
Sealed item:  
Confidential Criminal History Addendum In Sealed Manila Envelope.
20. 31-Jul-2015 FILED: e-Record on Appeal:  
Instruments/Minute Entries: Combined  
Disposition Report: None  
Exhibits: None
21. 10-Aug-2015 FILED: Reporter's Transcript 02/25/2014 - Trial Continuance - A.M. (Marla Arnold)
22. 11-Aug-2015 FILED: Reporter's Transcript - 08/25/14 - Status Conference (Marmie Guimont)
23. 14-Aug-2015 FILED: Reporter's Transcripts - 09/15/14 - (Jane Westlund)
24. 14-Aug-2015 FILED: Reporter's Transcripts - 10/02/14 - (Jane Westlund)
25. 14-Aug-2015 FILED: Reporter's Transcripts - 12/03/14 - (Jane Westlund)
26. 16-Aug-2015 FILED: Reporter's Transcript - 05/16/2014 - (Linda Lopez)
27. 17-Aug-2015 FILED: Reporter's Transcript - 07/08/2014 - (Linda Lopez)
28. 17-Aug-2015 FILED: Motion for Extension of Time to File Transcripts (Gail Ferguson)
29. 18-Aug-2015 ORDERED: Motion for Extension of Time to File Transcripts (Gail Ferguson) = GRANTED. Due Dates EXTENDED to 09/17/2015 for Transcripts dated 02/23/2015, 02/24/2015, 02/25/2015, 02/26/2015, 03/02/2015, 03/16/2015, 03/17/2015, 03/18/2015, 03/24/2015, 03/25/2015, 03/26/2015, 05/29/2015, 02/18/2015, 03/03/2015 or OSC 10/07/15. Hon Samuel A Thumma - Author
30. 20-Aug-2015 FILED: Reporter's Transcript - 04/03/2014 - Conference (April Hunt)
31. 20-Aug-2015 FILED: Reporter's Transcript - 03/03/2015 - Trial (April Hunt)
32. 20-Aug-2015 FILED: Reporter's Transcript - 03/17/2015 - Trial (April Hunt)
33. 21-Aug-2015 FILED: Reporter's Transcript - 3/18/15 - Jury Trial PM Only (Scott Coniam)
34. 21-Aug-2015 FILED: Reporter's Transcript - 1/29/14 - Status Conf Morning Calendar (Scott Coniam)
35. 21-Aug-2015 FILED: Reporter's Transcript 12/01/2014 Hearing (Crystal Hereford)
36. 25-Aug-2015 FILED: Reporter's Transcript - 02-10-2015 - Desserault Hearing (Kristi Week)
37. 7-Sep-2015 FILED: Reporter's Transcripts - 05/22/2013 - Settlement Conference - (Jovanna Roman for Brenda Brown)

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38. 16-Sep-2015 FILED: Motion for Extension of Time to File Transcripts (Gail Ferguson)
39. 25-Sep-2015 ORDERED: Motion for Extension of Time to File Transcripts (Gail Ferguson) = GRANTED. Due Dates EXTENDED to 10/23/2015 for Transcripts dated 02/23/2015, 02/24/2015, 02/25/2015, 02/26/2015, 03/02/2015, 03/16/2015, 03/17/2015, 03/18/2015, 03/24/2015, 03/25/2015, 03/26/2015, 05/29/2015, 02/18/2015, 03/03/2015 or OSC on 11/04/2015. FURTHER ORDERED: If transcripts are not filed by due date, monetary sanction will be imposed of \$75 per day, beginning 10/24/2015 until transcripts are filed. FURTHER ORDERED: If transcripts are not filed by 10/31/2015, the daily fine will rise to \$150 per day until the transcripts are filed. Hon Samuel A Thumma - Author
40. 30-Sep-2015 ORDERED: Staying appeal to/including 11/12/15 and revesting jurisdiction in Maricopa County Superior Court for the purpose of permitting that court and the parties to reconstruct the record of the 11 minute proceeding held on January 18, 2013. FURTHER ORDERED: Superior Court shall transmit certified copy of findings/reconstructed materials within five days after entry, no later than 11/12/15. FURTHER ORDERED: Appeal shall be automatically reinstated 11/13/15 without further order. FURTHER ORDERED: Extending Opening Brief due date until 12/14/15. Hon Samuel A Thumma - Author
41. 5-Oct-2015 ORDERED: Vacating Opening Brief due date. Anthony Mackey ProTem Judge - Author
42. 26-Oct-2015 FILED: Reporters Transcript - 3/3/2015 (Gail Ferguson)
43. 26-Oct-2015 FILED: Reporters Transcript - 3/16/2015 (Gail Ferguson)
44. 26-Oct-2015 FILED: Reporters Transcript - 3/26/2015 (Gail Ferguson)
45. 26-Oct-2015 FILED: Reporters Transcript - 2/23/2015 (Gail Ferguson)
46. 26-Oct-2015 FILED: Reporters Transcript - 2/24/2015 (Gail Ferguson)
47. 26-Oct-2015 FILED: Reporters Transcript - 2/25/2015 (Gail Ferguson)
48. 26-Oct-2015 FILED: Reporters Transcript - 2/26/2015 (Gail Ferguson)
49. 29-Oct-2015 FILED: Reporters Transcript - 3/18/2015 - (Gail Ferguson)
50. 29-Oct-2015 FILED: Reporters Transcript - 3/24/2015 - (Gail Ferguson)
51. 29-Oct-2015 FILED: Reporters Transcript - 3/17/2015 - (Gail Ferguson)
52. 30-Oct-2015 FILED: Reporter's Transcript - 03/25/2015 - (Gail Ferguson)
53. 30-Oct-2015 FILED: Reporter's Transcript - 02/18/2015 - (Gail Ferguson)
54. 2-Nov-2015 FILED: Reporter's Transcript - 05/29/2015 - Sentence of Imprisonment (Gail Ferguson)
55. 3-Nov-2015 FILED: Reporter's Transcript - 3/2/2015 - (Gail Ferguson)
56. 3-Nov-2015 FILED: Reporter's Transcript - 3/2/2015 - (Gail Ferguson) (Duplicate)
57. 2-Dec-2015 FILED: Supplemented Superior Court e-Record with Revised Index of Record (includes Statement of Missing Portion of Record)
58. 28-Dec-2015 ORDERED: Staying this appeal to/including 01/22/16 and revesting jurisdiction in Maricopa County Superior Court for permitting trial court parties to settle record (re: Statement of Missing Portion of Record) in this matter. FURTHER ORDERED: Superior Court shall transmit certified copy of findings/reconstructed materials within five days after entry, no later than 01/22/16. FURTHER ORDERED: Appeal shall be automatically reinstated 01/25/16 without further order. Anthony Mackey ProTem Judge - Author
59. 8-Jan-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record (includes minute entry re: Statement of Missing Portion of Record)
60. 21-Jan-2016 ORDERED: A monetary sanction is imposed on Gail Ferguson in the amount of \$1,125 for failure to timely file the transcripts due in this case, with payment to be made to this court through the Clerk of Court no later than February 2, 2016. FURTHER ORDERED: Court Reporter Gail Ferguson to appear at OSC 02/03/16. Hon Samuel A Thumma - Author
61. 2-Feb-2016 RECEIPT No.: 2016-00129 ; \$1,125.00, Check Number: #128, Applied to: Gail Ferguson - \$75 Sanction (\$525.00), \$150 Sanction (\$600.00) Paid for: - By Gail Ferguson
62. 25-Feb-2016 FILED: Notice of Completion of Record

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63. 4-Mar-2016 FILED: Notice of Appearance; Certificate of Service (Appellant)
64. 25-Mar-2016 FILED: Motion for Complex Case Designation; Certificate of Service (Appellant)
65. 6-Apr-2016 ORDERED: Motion for Complex Case Designation; (Appellant) = GRANTED/Vacating Opening Brief date. FURTHER ORDERED: Counsel shall have to/including 4/29/16 to file a motion to supplement the record with any transcripts not included under Rule 31.8. FURTHER ORDERED: Counsel shall contact appellee's counsel to agree upon an extended briefing schedule. Counsel shall file the proposed extended briefing schedule no later than 5/2/16. Anthony Mackey ProTem Judge - Author Anthony Mackey ProTem Judge - Author
66. 27-Apr-2016 FILED: Proposed Extended Briefing Schedule; Certificate of Service (Appellant)
67. 2-May-2016 ORDERED: Proposed Extended Briefing Schedule (Appellant) = GRANTED/Opening Brief due 07/05/2016. FURTHER ORDERED: Answering Brief due 10/03/2016. FURTHER ORDERED: Reply Brief due 12/02/2016. Anthony Mackey ProTem Judge - Author
68. 5-Jul-2016 FILED: Appellant's Opening Brief; Certification of Compliance with Rule 31.13(b), ARCP; Certificate of Service (Appellant)
69. 12-Jul-2016 FILED: Notice of Appearance; Certificate of Service (Appellee)
70. 30-Sep-2016 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
71. 12-Oct-2016 FILED: Notice of No Reply; Certificate of Service (Appellant)
72. 26-Oct-2016 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
73. 4-Nov-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
74. 9-Nov-2016 FILED: Notice of Appearance/Case Reassignment; Certificate of Service (Appellant)
75. 28-Nov-2016 CLNDR: CONFERENCE, Department E, 1-11-17, COURTROOM 2.