

**Court of Appeals, Division One**  
**Criminal**

**1 CA-CR 15-0583**

**STATE v. BURKE**

**Appellate Case Information**

Case Filed: 8-Sep-2015  
Case Closed:

**Dept/Composition**

**Department C**  
Hon. Diane M Johnsen  
Hon. Jon W Thompson  
Hon. John C Gemmill

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

(Litigant Group) STATE OF ARIZONA

- State of Arizona

**Attorneys for: Appellee**

Jillian Francis, Esq. (AZ Bar No. 30117)

**Side 2. ROBERT JAMES BURKE, Appellant**

(Litigant Group) ROBERT JAMES BURKE

- Robert James Burke

**Attorneys for: Appellant**

Kevin D Heade, Esq. (AZ Bar No. 29909)

**CASE STATUS**

Dec 20, 2016....Decision Rendered

PREDECESSOR CASE (S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR2014-110639-001	See File	See File	Dean M Fink, Sentencing	JURY	

**2 OPEN DUE DATES**

**Motion for Reconsideration due** **Due By:** Monday, January 9, 2017

*Re: MEMORANDUM DECISION (Affirmed) Hon Diane M Johnsen - Author; Hon Jon W Thompson - Concur; Hon John C Gemmill - Concur*

**Petition for Review to ASC due** **Due By:** Tuesday, January 24, 2017

*Re: MEMORANDUM DECISION (Affirmed) Hon Diane M Johnsen - Author; Hon Jon W Thompson - Concur; Hon John C Gemmill - Concur*

**CASE DECISION**

**20-Dec-2016 MEMORANDUM DECISION**

Diane Johnsen.....Author  
Jon Thompson.....Concur  
John Gemmill.....Concur

Filed: 20-Dec-2016 Mandate:

Decision Disposition

**Affirmed**

**45 PROCEEDING ENTRIES**

- 8-Sep-2015 FILED: Notice of Appeal from Maricopa County Superior Court filed 08/27/15. Notification sent to Court Reporters dated 09/04/2015. Includes Designation of Record.
- 16-Sep-2015 FILED: Reporter's Transcript - 2/26/15 - Jury Trial (Laurie R. Yazwa)
- 24-Sep-2015 FILED: Reporters Transcript 10/14/2014 (Karen Bolton)
- 27-Sep-2015 FILED: Reporter's Transcript - 02/05/15 - Pretrial Motions (Cindy Lineburg)
- 27-Sep-2015 FILED: Reporter's Transcript - 02/09/15 - Jury Voir Dir (Cindy Lineburg)
- 27-Sep-2015 FILED: Reporter's Transcript - 02/12/15 - Hearing (Cindy Lineburg)
- 5-Oct-2015 FILED: Reporter's Transcript - 02/12/15 - Trial (Amended coversheet) (Cindy Lineburg)
- 5-Oct-2015 FILED: Reporter's Transcript - 2/25/15 - (Kristen Brown)
- 5-Oct-2015 FILED: Reporter's Transcript - 4/24/15 - (Kristen Brown)
- 6-Oct-2015 FILED: Reporter's Transcript - 2/11/15 - (Barbara Stockford)

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11. 7-Oct-2015 FILED: Motion for Extension of Time (to File Transcripts) (Lori Thielmann)
12. 8-Oct-2015 FILED: Reporter's Transcript - 01/12/15 - Settlement Conference (Scott A. Kindle)
13. 12-Oct-2015 FILED: Reporter's Transcript - 02/17/15 - Trial (Cindy Lineburg)
14. 12-Oct-2015 FILED: Reporter's Transcript - 02/18/15 - Trial (Cindy Lineburg)
15. 12-Oct-2015 FILED: Reporter's Transcript - 02/19/15 - Settling Jury Inst. (Cindy Lineburg)
16. 12-Oct-2015 FILED: e-Record on Appeal:  
Instruments/Minute Entries: Combined  
Disposition Report: None  
Exhibits: None Sent
17. 13-Oct-2015 ORDERED: Motion for Extension of Time (to File Transcripts) (Lori Thielmann) = GRANTED. Due Dates EXTENDED to 11/12/2015 for Transcripts dated 02/11/2015, 02/24/2015 or OSC 11/18/15. Hon Samuel A Thumma - Author
18. 14-Oct-2015 FILED: Reporter's Transcript - 2-10-15 - Jury Trial (Helene Paustian)
19. 27-Oct-2015 FILED: First Motion for Extension (Of Time to File Transcripts) (Lisa Bradley)
20. 29-Oct-2015 ORDERED: First Motion for Extension (Of Time to File Transcripts) (Lisa Bradley) = GRANTED. Due Dates EXTENDED to 11/30/2015 for Transcripts dated 02/10/2015, 02/26/2015 or OSC 12/02/15. Hon Samuel A Thumma - Author
21. 11-Nov-2015 FILED: Reporters Transcript - 02/11/2015 - (Lori Thielmann)
22. 11-Nov-2015 FILED: Reporters Transcript - 02/24/2015 - (Lori Thielmann)
23. 16-Nov-2015 FILED: Reporters Transcript - 02/10/2015 - (Lisa Bradley)
24. 16-Nov-2015 FILED: Reporters Transcript - 02/26/2015 - (Lisa Bradley)
25. 23-Dec-2015 FILED: Notice of Completion of Record
26. 31-Dec-2015 FILED: Notice of Appearance; Certificate of Service (Appellant)
27. 19-Jan-2016 FILED: Motion to Unseal Documents: Jury List and Interview with Robert (James) Burke; Certificate of Service (Appellant)
28. 19-Jan-2016 FILED: Motion to Remand to Trial Court for Reconstruction of the Record -and- Request for Extension of Time to File the Opening Brief; Certificate of Service (Appellant)
29. 26-Jan-2016 ORDERED: Motion to Unseal Documents: Jury List and Interview with Robert (James) Burke (Appellant) = GRANTED/Unsealing the random jury list, IOR 118, and the transcript of the interview with Robert (James) Burke, IOR 79, to permit inspection and/or copying of these items for use by the appellant or the appellee for this appeal only. Anthony Mackey ProTem Judge - Author
30. 26-Jan-2016 ORDERED: Motion to Remand to Trial Court for Reconstruction of the Record (Appellant) = GRANTED/Staying this appeal to/including 03/10/16 and revesting jurisdiction in Maricopa County Superior Court for permitting trial court parties to settle record in this matter. FURTHER ORDERED: Superior Court shall transmit certified copy of findings/reconstructed materials within five days after entry, no later than 03/11/16. FURTHER ORDERED: Appeal shall be automatically reinstated 03/11/16 without further order. FURTHER ORDERED: Request for Extension of Time to File the Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 02-08-2016 to Monday, 04-11-2016. Anthony Mackey ProTem Judge - Author
31. 16-Mar-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record (Includes Notice of Joint Stipulation by Parties to Reconstruct the Record and Request to Reconstruct the Record, filed 2/18/16; Sealed Document - State's Trial Exhibit 10 (Part 1 and 2) filed 2/22/16; Sealed Document - Interview with Robert (James) Burke filed 3/3/16)
32. 21-Mar-2016 FILED: Motion to Unseal Documents; Certificate of Service (Appellant)
33. 28-Mar-2016 ORDERED: Motion to Unseal Documents (Appellant) = GRANTED/Unsealing "Original Sealed Document State's Trial Exhibit 10 with Exhibit Tag" (Index # 162), and "Original Sealed Document Interview with Robert (James) Burke" (Index # 167) for this appeal only. FURTHER ORDERED: Opening Brief due date EXTENDED to 04/27/2016. Fred Cole ProTem Judge - Author
34. 27-Apr-2016 FILED: Appellant's Opening Brief; Certification of Compliance with Rule 31.13(b), ARCP; Certificate of Service (Appellant)

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**45 PROCEEDING ENTRIES**

35. 12-May-2016 FILED: Notice of Appearance; Certificate of Service (Appellee)
36. 14-Jun-2016 ORDERED: Answering Brief due date EXTENDED from Monday, 06-13-2016 to Wednesday, 07-13-2016. Fred Cole ProTem Judge - Author
37. 12-Jul-2016 FILED: Motion for Extension of Time to File Answering Brief (Second Request); Certificate of Service (Appellee)
38. 13-Jul-2016 ORDERED: Motion for Extension of Time to File Answering Brief (Second Request) (Appellee) = GRANTED/Due date EXTENDED from Wednesday, 07-13-2016 to Friday, 08-12-2016. Anthony Mackey ProTem Judge - Author
39. 12-Aug-2016 FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
40. 29-Aug-2016 FILED: Appellant's Reply Brief; Certification of Compliance with Rule 31.13(b), ARCP; Certificate of Service (Appellant)
41. 30-Aug-2016 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
42. 9-Sep-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record
43. 26-Sep-2016 CLNDR: CONFERENCE, Department C, 11-16-16, COURTROOM 1.
44. 20-Dec-2016 MEMORANDUM DECISION (Affirmed) Hon Diane M Johnsen - Author; Hon Jon W Thompson - Concur; Hon John C Gemmill - Concur
45. 20-Dec-2016 FILED: Memorandum Decision Distribution List