

Court of Appeals, Division One

Criminal

1 CA-CR 22-0274

STATE v. SCARPATI

Appellate Case Information

Case Filed: 16-Jun-2022

Case Closed:

Dept/Composition

Department A

Hon. Randall M Howe
Hon. Jennifer M Perkins
Hon. Daniel J Kiley

Side 1. STATE OF ARIZONA, Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellee

Deborah Celeste Kinney, Esq. (AZ Bar No. 30741)

Side 2. KIMBERLY LEAH SCARPATI, Appellant

(Litigant Group) KIMBERLY LEAH SCARPATI

- Kimberly Leah Scarpati

Attorneys for: Appellant

Trent R Buckallew, Esq. (AZ Bar No. 19411)

CASE STATUS

Apr 3, 2024.....Pending Closure

PREDECESSOR CASE (S)

MAR CR2018-119908-001

Cause/Charge/Class

See File

Judgment/Sentence

See File

Judge, Role <Comments>

Laura M Reckart,
Sentencing

Trial

JURY

Dispo

DESCENDENT CASE (S)

ASC CR-23-0274-PR

OPEN DUE DATE

Stay request (re: Writ of Certiorari) due

Due By:

Tuesday, April 23, 2024

Re: Minute Letter of ASC: Petition for Review DENIED

CASE DECISION

05-Oct-2023 MEMORANDUM DECISION

Daniel Kiley.....Author

Randall Howe.....Concur

Jennifer Perkins.....Concur in Part

Dissent in Part

Filed: 05-Oct-2023

Mandate:

Decision Disposition

Affirmed in Part

Remanded in Part

54 PROCEEDING ENTRIES

- 16-Jun-2022 FILED: Notice of Appeal from Maricopa County Superior Court filed 06/09/22. Notification sent to Court Reporters dated 06/15/2022.
- 20-Jun-2022 FILED: Minute Entry dated 06/14/2022
- 20-Jun-2022 ORDERED: Attorney Trent Buckallew shall remain appellant's counsel for all further proceedings on appeal. FURTHER ORDERED: Court Reporters Treva Colwell, April Escobedo, and Catherine Turner transcripts due by 08/04/2022. Benjamin A Armstrong ProTem Judge - Author
- 23-Jun-2022 FILED: Correction Order re: Minute Entry dated 06/21/2022
- 29-Jun-2022 FILED: Reporter's Transcript - 03/24/2022 - Trial Procedure Conference (Treva B. Colwell)
- 29-Jun-2022 FILED: Reporter's Transcript - 03/29/2022 - Trial Day 2 (Treva B. Colwell)
- 29-Jun-2022 FILED: Reporter's Transcript - 04/06/2022 - Trial Day 5 (Treva B. Colwell)
- 29-Jun-2022 FILED: Reporter's Transcript - 04/07/2022 - Trial Day 6 (Treva B. Colwell)
- 19-Jul-2022 FILED: Reporter's Transcript - 06/03/2022 - Sentencing (Treva B. Colwell)

Court of Appeals, Division One**Criminal****1 CA-CR 22-0274****STATE v. SCARPATI****54 PROCEEDING ENTRIES**

10.	19-Jul-2022	FILED: Reporter's Transcripts - 03/30/2022 - Trial Day 3 (Treva B. Colwell)
11.	19-Jul-2022	FILED: Reporter's Transcripts - 04/04/2022 - Trial Day 4 (Treva B. Colwell)
12.	19-Jul-2022	FILED: Reporter's Transcript - 04/11/2022 - Trial Day 7 (Treva B. Colwell)
13.	19-Jul-2022	FILED: Reporter's Transcript - 04/13/2022 - Trial Day 9 (Treva B. Colwell)
14.	20-Jul-2022	FILED: Reporter's Transcript - 03/28/2022 - Jury Trial (Catherine Turner)
15.	22-Jul-2022	FILED: Additional Record on Appeal Physical Exhibits: Hearing Date: 11/15/2019 List # 1 3 4 5 8 in manila envelope Hearing Date: 03/28/2022 List # 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 36 37 38 39 40 44 45 46 60 61 62 64 70 71 73 74 75 77 80 81 82 83 87 93 94 96 97 98 99 100 101 102 103 110 112 in manila envelope Sealed Exhibit: Confidential Criminal History Report in Sealed Manila Envelope
16.	22-Jul-2022	FILED: e-Record on Appeal: Instruments/Minute Entries: Combined Disposition Report: 264 Exhibits: None sent with e-Record
17.	2-Aug-2022	FILED: Request for Extension of Time (Time to File Transcript)(April Escobedo)
18.	4-Aug-2022	ORDERED: Request for Extension of Time (Time to File Transcript)(April Escobedo) = GRANTED. Due date EXTENDED from Thursday, 08-04-2022 to Tuesday, 09-06-2022 for transcript dated 04/12/2022 or OSC set for 09/21/2022. Hon David B Gass - Author
19.	14-Sep-2022	FILED: Reporter's Transcripts - 04/12/2022 - Trial - Day 8 AM (April Escobedo)
20.	14-Sep-2022	FILED: Notice of Completion of Record
21.	19-Oct-2022	FILED: Motion to Extend Time for Filing Opening Brief (Without Objection); Certificate of Service (Appellant)
22.	24-Oct-2022	ORDERED: Motion to Extend Time for Filing Opening Brief (Without Objection) (Appellant) = GRANTED. Benjamin A Armstrong ProTem Judge - Author
23.	18-Nov-2022	FILED: Motion to Extend Time for Filing Opening Brief; Certificate of Service (Appellant)
24.	19-Nov-2022	FILED: Reporter's Transcript - 04/12/2022 - Trial Day 8 (April Escobedo)
25.	22-Nov-2022	ORDERED: Motion to Extend Time for Filing Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 11-30-2022 to Friday, 12-30-2022 or OSC set for 01/04/2023. Benjamin A Armstrong ProTem Judge - Author
26.	28-Dec-2022	FILED: Appellant's Opening Brief; Certificate of Rule 31.13(b) Compliance; Certificate of Service (Appellant)
27.	5-Jan-2023	FILED: Notice of Appearance; Certificate of Service (Appellee)
28.	1-Feb-2023	FILED: Unopposed Motion for Procedural Order (Extension for Answering Brief); Certificate of Service (Appellee)
29.	2-Feb-2023	ORDERED: Unopposed Motion for Procedural Order (Extension for Answering Brief) (Appellee) = GRANTED. Due date EXTENDED from Monday, 02-06-2023 to Wednesday, 03-08-2023. Benjamin A Armstrong ProTem Judge - Author
30.	8-Mar-2023	FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
31.	8-Mar-2023	FILED: Unopposed Motion for Procedural Order (Exceed Word Limit for Answering Brief); Certificate of Service (Appellee)
32.	15-Mar-2023	ORDERED: Unopposed Motion for Procedural Order (Exceed Word Limit for Answering Brief) (Appellee) = GRANTED and accepting the answering brief filed 03/08/2023. Hon David B Gass - Author
33.	20-Mar-2023	FILED: Motion To Extend Time For Filing Reply Brief; Certificate of Service (Appellant)
34.	23-Mar-2023	ORDERED: Motion To Extend Time For Filing Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 03-28-2023 to Monday, 04-17-2023. Benjamin A Armstrong ProTem Judge - Author
35.	31-Mar-2023	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days

Court of Appeals, Division One**Criminal****1 CA-CR 22-0274****STATE v. SCARPATI****54 PROCEEDING ENTRIES**

36.	10-Apr-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record
37.	14-Apr-2023	FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
38.	14-Apr-2023	FILED: Motion to Exceed Word Limit on Reply Brief; Certificate of Service (Appellant)
39.	25-Apr-2023	ORDERED: Motion to Exceed Word Limit on Reply Brief (Appellant) = GRANTED and accepting the reply brief filed on 04/14/2023. Hon Kent E Cattani - Author
40.	27-Apr-2023	CLNDR: CONFERENCE, Department F, 6-15-23, CONFERENCE ROOM.
41.	4-May-2023	ORDERED: Vacating conference scheduled for 06/15/2023 and assignment of this case to Department F. FURTHER ORDERED: Directing Clerk of this Court to schedule appeal on next available calendar. Hon Maria Elena Cruz - Author
42.	30-May-2023	CLNDR: CONFERENCE, Department A, 7-5-23, CONFERENCE ROOM.
43.	6-Jul-2023	ORDERED: Directing the Appellant to file a supplemental brief of no more than 1500 words on or before 07/20/2023 and the Appellee to file a response of no more than 1500 words after the Appellant and before 07/27/2023. The briefs shall address (1) whether the court used mere addiction as an aggravating factor in violation of State v. Barnett, 127 Ariz. 16 (1980) (citing Robinson v. California, 370 U.S. 660, 666–67 (1962) holding a statute punishing a defendant for an addiction unconstitutional); and (2) if so, whether this error constituted fundamental, prejudicial error. When addressing the second issue the court directs the parties to consider State v. Muninger, 213 Ariz. 393 (App. 2006) and State v. Trujillo, 227 Ariz. 314 (App. 2011). Hon Randall M Howe - Author
44.	19-Jul-2023	FILED: Appellant's Supplemental Brief; Certificate of Compliance (Duplicate); Certificate of Service (Duplicate) (Appellant)
45.	26-Jul-2023	FILED: Appellee's Supplemental Brief; Certificate of Compliance; Certificate of Service (Appellee)
46.	5-Oct-2023	MEMORANDUM DECISION (Affirmed in Part, Remanded in Part) Hon Daniel J Kiley - Author; Hon Randall M Howe - Concur; Hon Jennifer M Perkins - Concur in Part; Hon Jennifer M Perkins - Dissent in Part
47.	5-Oct-2023	FILED: Memorandum Decision Distribution List
48.	19-Oct-2023	FILED: Motion for Reconsideration; Certificate of Compliance; Certificate of Service (Appellant)
49.	24-Oct-2023	ORDERED: Motion for Reconsideration (Appellant) = DENIED. Hon Daniel J Kiley - Author
50.	3-Nov-2023	FILED: ASC Order filed 11/03/2023 re: ORDERED: Motion is denied without prejudice to Appellant Scarpati's ability to file a motion in compliance with Arizona Rules of Crim. Proc. Rule 31.6(e) or ARCAP 6(b). This matter is subject to dismissal if a compliant motion or petition for review is not filed by 11/13/2023.
51.	3-Nov-2023	FILED: ASC Order filed 11/03/2023 re: extending time for filing Petition for Review to 12/08/2023; matter subject to dismissal if the petition for review is not filed by 12/08/2023.
52.	5-Dec-2023	FILED: Email Notice from ASC re: Petition for Review filed 12/03/2023; request for partial record
53.	5-Dec-2023	FILED: Letter forwarding partial record to Arizona Supreme Court
54.	2-Apr-2024	FILED: Letter from ASC, 04/02/2024, re: Petition for Review DENIED on 04/02/2024