

Court of Appeals, Division One

Criminal

1 CA-CR 22-0487

STATE v. KELLY

Appellate Case Information

Case Filed: 25-Oct-2022

Case Closed: 1-Apr-2024

Decision

Dept/Composition

Department A

Hon. Samuel A Thumma

Hon. Randall M Howe

Hon. Anni Hill Foster

Side 1. STATE OF ARIZONA, Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellee

Amy Pignatella Cain, Esq. (AZ Bar No. 20629)

Side 2. JARED NEIL KELLY, Appellant

(Litigant Group) JARED NEIL KELLY

- Jared Neil Kelly

Attorneys for: Appellant

Adam Zickerman, Esq. (AZ Bar No. 22320)

CASE STATUS

Apr 1, 2024.....Case Closed

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
YAV V1300CR201980701	See File	See File	Michael R Bluff, Sentencing	JURY	

CASE DECISION

22-Feb-2024 OPINION

Anni Foster.....Author

Samuel Thumma.....Concur

Randall Howe.....Concur

Filed: 22-Feb-2024

Mandate: 01-Apr-2024

Decision Disposition

Affirmed

52 PROCEEDING ENTRIES

- 25-Oct-2022 FILED: Notice of Appeal from Yavapai County Superior Court filed 10/10/22. Notification sent to Court Reporters dated 10/13/2022.
- 25-Oct-2022 FILED: e-Record on Appeal:
Instruments/Minute Entries: Combined
Disposition Report: None
Exhibits: Hearing Date: 05/31/2022 List # 2 5 7 8 9
Hearing Date: 07/12/2022 List # 17 18 19 20 21 22 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 75 76 77 78 79 80 81 82 83 84 85 86 87 95 96
Hearing Date: 07/13/2022 List # 13 14 23 24 25 26 27 28 29 30 31 74 97 100
Hearing Date: 07/14/2022 List # 32 65 66 67 68 69 70 71 72 98 103
(Includes transcript dated 05/25/2022)
- 27-Oct-2022 FILED: Additional Record on Appeal
Physical Exhibits:
Hearing Date: 05/25/2022 07/12/2022 07/13/2022 List # 6 10 90 99 101 102 (CD) in manila envelope
- 3-Nov-2022 FILED: Appellate Clerk Notice (31.2(g))
- 4-Nov-2022 ORDERED: Directing appellant to make financial arrangements with the court reporters for the preparation of the transcripts by 12/05/2022. FURTHER ORDERED: Directing appellant file a notice in this court by 12/09/2022, as to the arrangements made. If appellant fails to timely file a notice of financial arrangements, the court will dismiss this appeal. FURTHER ORDERED: That, if applicable, appellant may file in the superior court a motion to proceed as indigent with a supporting affidavit as required by Rule 31.5(a)(2). Attorney Theodore Agnick must assist appellant with the request. Appellant must file a copy of the request in this court by 12/05/2022. Benjamin A Armstrong ProTem Judge - Author
- 4-Nov-2022 FILED: Supplemented Superior Court e-Record with Revised Index of Record
- 8-Nov-2022 FILED: Notice of Appearance; Certificate of Service (Appellant)
- 12-Nov-2022 FILED: Reporter's Transcript - 09/28/2022 - Presentence Hearing and Sentencing Proceedings (M. Lisa Edgar)

Court of Appeals, Division One**Criminal****1 CA-CR 22-0487****STATE v. KELLY****52 PROCEEDING ENTRIES**

9.	12-Nov-2022	FILED: Reporter's Transcript - 07/12/2022 - Jury Trial Day 1 Morning Proceedings (M. Lisa Edgar)
10.	12-Nov-2022	FILED: Reporter's Transcript - 07/14/2022 - Jury Trial Day 3 Afternoon Proceedings (M. Lisa Edgar)
11.	12-Nov-2022	FILED: Reporter's Transcript - 07/15/2022 - Jury Trial Day 4 Morning Proceedings (M. Lisa Edgar)
12.	12-Nov-2022	FILED: Reporter's Transcript - 07/19/2022 - Jury Trial Day 5 Morning proceedings (M. Lisa Edgar)
13.	18-Nov-2022	FILED: Reporter's Transcript - 07/15/2022 - Jury Trial Day Four of Five (Debra K Upham)
14.	18-Nov-2022	FILED: Reporter's Transcript - 07/19/2022 - Jury Trial Day Five of Five (Debra K Upham)
15.	18-Nov-2022	FILED: Reporter's Transcript - 05/25/2022 - Voluntariness Hearing (Debra K Upham)
16.	18-Nov-2022	FILED: Reporter's Transcript - 07/12/2022 - Jury Trial Day One of Five (Debra K Upham)
17.	18-Nov-2022	FILED: Reporter's Transcript - 07/13/2022 - Jury Trial Day Two of Five (Debra K Upham)
18.	18-Nov-2022	FILED: Reporter's Transcript - 07/14/2022 - Jury Trial Day Three of Five (Debra K Upham)
19.	27-Nov-2022	FILED: Reporter's Transcript - 05/31/2022 - Evidentiary Hearing (Carol Dillon)
20.	27-Nov-2022	FILED: Reporter's Transcript - 07/13/2022 - Jury Trial - Day 2 (Carol Dillon)
21.	28-Nov-2022	FILED: Notice of Completion of Record
22.	1-Dec-2022	FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
23.	9-Dec-2022	FILED: Notice of Appearance; Certificate of Service (Appellee)
24.	27-Dec-2022	FILED: Motion to Withdraw as Appellant's Attorney; Certificate of Service (Appellant)
25.	3-Jan-2023	ORDERED: Motion to Withdraw as Appellant's Attorney (Appellant) = GRANTED. FURTHER ORDERED: Directing the Contract Administrator of the Yavapai County Public Defender to assign new contract counsel to represent appellant in this appeal and to provide this court the name of assigned counsel by 01/17/2023. Benjamin A Armstrong ProTem Judge - Author
26.	3-Jan-2023	FILED: Motion for Procedural Order (Extension for Answering Brief); Certificate of Service (Appellee)
27.	4-Jan-2023	ORDERED: Motion for Procedural Order (Extension for Answering Brief) (Appellee) = GRANTED. Due date EXTENDED from Tuesday, 01-10-2023 to Thursday, 02-09-2023. Geoffrey P Butzine ProTem Judge - Author
28.	10-Jan-2023	FILED: Notice of Assignment; Certificate of Service (Appellant)
29.	12-Jan-2023	ORDERED: Affirming the appointment of Adam Zickerman as counsel for appellant for all remaining proceedings on appeal. Benjamin A Armstrong ProTem Judge - Author
30.	20-Jan-2023	FILED: Notice of Limited Appearance; Certificate of Service Re: Notice of Limited Appearance (Appellant)
31.	2-Feb-2023	FILED: Unopposed Motion for Procedural Order (Extension for Answering Brief-Second Request); Certificate of Service (Appellee)
32.	2-Feb-2023	ORDERED: Unopposed Motion for Procedural Order (Extension for Answering Brief-Second Request) (Appellee) = GRANTED. Due date EXTENDED from Thursday, 02-09-2023 to Monday, 03-13-2023 or OSC set for 03/15/2023. Benjamin A Armstrong ProTem Judge - Author
33.	13-Mar-2023	FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
34.	13-Mar-2023	FILED: Amended Certificate of Service (Appellee)
35.	14-Mar-2023	FILED: Motion For Thirty Day Extension For Appeal Reply Brief; Certificate Of Service Re: Motion For Thirty Day Extension For Appellant [sic] Reply Brief (Appellant)
36.	17-Mar-2023	ORDERED: Motion For Thirty Day Extension For Appeal Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 04-03-2023 to Monday, 04-24-2023. Benjamin A Armstrong ProTem Judge - Author
37.	24-Apr-2023	FILED: Appellant's Reply Brief; Certificate of Compliance re: Appellant's Reply Brief; Certificate of Service re: Appellant's Reply Brief (Appellant) [Stricken per order filed 04/25/2023]
38.	25-Apr-2023	ORDERED: Striking the reply brief filed 04/24/2023. FURTHER ORDERED: Appellant may file a signed replacement reply brief by 05/04/2023. Benjamin A Armstrong ProTem Judge - Author

Court of Appeals, Division One**Criminal****1 CA-CR 22-0487****STATE v. KELLY****52 PROCEEDING ENTRIES**

39.	25-Apr-2023	FILED: Appellant's Reply Brief; Certificate of Compliance re: Appellant's Reply Brief; Certificate of Service re: Appellant's Reply Brief (Appellant)
40.	27-Apr-2023	CLNDR: CONFERENCE, Department A, 5-30-23, CONFERENCE ROOM.
41.	25-May-2023	ORDERED: Staying this appeal until further notice. After the supreme court issues its ruling in Luviano, this court will vacate the stay in this matter and issue its decision in due course. Hon Samuel A Thumma - Author
42.	14-Jun-2023	FILED: Notice to the Court; Certificate of Service (Appellee)
43.	15-Jun-2023	ORDERED: Lifting the stay of this appeal. Hon Samuel A Thumma - Author
44.	22-Jun-2023	ORDERED: Parties are authorized to submit supplemental briefs addressing two issues: 1) what effect, if any, the Arizona Supreme Court's opinion in Luviano has on this matter and 2) whether Count 4 is a lesser-included offense of Count 2. FURTHER ORDERED: Any supplemental brief by Appellant shall not exceed 10 pages and shall be filed on or before 07/11/2023; any supplemental brief by Appellee shall not exceed 10 pages and shall be filed on or before 07/31/2023; and any supplemental reply brief by Appellant shall not exceed 5 pages and shall be filed on or before 08/07/2023. FURTHER ORDERED: Upon expiration of the time for supplemental briefing, the Court may issue a decision resolving this appeal without further notice to the parties. FURTHER ORDERED: Staying this appeal pending supplemental briefing until further notice of this Court. Hon Samuel A Thumma - Author
45.	11-Jul-2023	FILED: Appellant's Supplemental Brief; Certificate Of Compliance Re: Appellant's Supplemental Brief; Certificate Of Service Re: Appellant's Supplemental Brief (Appellant)
46.	31-Jul-2023	FILED: Appellee's Supplemental Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
47.	31-Jul-2023	FILED: Appellee's Amended Supplemental Brief; Certificate of Compliance; Certificate of Service (Appellee)
48.	22-Feb-2024	OPINION (Affirmed) Hon Anni Hill Foster - Author; Hon Samuel A Thumma - Concur; Hon Randall M Howe - Concur
49.	22-Feb-2024	FILED: Decision Distribution Notification
50.	22-Feb-2024	ORDERED: Lifting the stay of this appeal. Hon Samuel A Thumma - Author
51.	1-Apr-2024	FILED: Mandate, Physical record to clerk, Yavapai County Superior Court.
52.	1-Apr-2024	FILED: Letter dated 04/01/2024, to Dept Public Safety Re: Copy of Mandate/Decision/Disposition Report