

**Arizona Supreme Court**  
**Criminal Petition for Review - Appeal**

**CR-15-0393-PR**

**STATE OF ARIZONA v PATRICK McLEOD NISSLEY**

**Appellate Case Information**

Case Filed: 17-Nov-2015  
 Case Closed:

**Dept/Composition**

**En Banc**  
 Hon. Scott Bales  
 Hon. John Pelander  
 Hon. Robert M. Brutinel  
 Hon. Ann A. Scott Timmer  
 Hon. Clint Bolick

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

(Litigant Group) STATE OF ARIZONA

- State of Arizona

**Attorneys for: Appellee**

Mark Brnovich, Esq. (AZ Bar No. 14134)  
 John R. Lopez, IV, Esq. (AZ Bar No. 19182)  
 Joseph T Maziarz, Esq. (AZ Bar No. 9212)  
 Terry M Crist, Esq. (AZ Bar No. 28348)

**Side 2. PATRICK McLEOD NISSLEY, Appellant**

(Litigant Group) PATRICK McLEOD NISSLEY

- Patrick McLeod Nissley

**Attorneys for: Appellant**

Natalee E Segal, Esq. (AZ Bar No. 16775)

**Side 3. ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE, Amicus Curiae**

(Litigant Group) ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE

- Arizona Attorneys for Criminal Justice

**Attorneys for: Amicus Curiae**

Mikel Steinfeld, Esq. (AZ Bar No. 24996)  
 Kevin D Heade, Esq. (AZ Bar No. 29909)

**CASE STATUS**

Feb 1, 2017.....Decision Rendered

Aug 30, 2016....Oral Argument Granted

Nov 17, 2015....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA 1 CA-CR 12-0780					
↔ MAR CR2011-110536-001	Reckless Manslaughter, Class 2; Endangerment, Imminent Death, class 6; Possession or use of narcotic Drugs, Class 4	15 years; 3 years; 3 years; 3 years; 3 years; 3 years	Bruce R Cohen, Sentencing Comments: (none)	JURY	

**CASE DECISION**

**01-Feb-2017 OPINION**

We vacate the court of appeals' opinion. We therefore remand to the trial court to apply the standards set forth in this opinion.

Filed: **01-Feb-2017**

Mandate:

**Ann Timmer**.....Author  
**Scott Bales**.....Concur  
**John Pelander**.....Concur  
**Robert Brutinel**.....Concur  
**Clint Bolick**.....Concur

Decision Disposition
<b>CofA Vacated</b> <b>Remanded</b>

**24 PROCEEDING ENTRIES**

1. 17-Nov-2015 FILED: Extension Request Petition for Review; Certificate of Mailing Extension Req. (Appellant Nissley)

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2. 4-Dec-2015 An "Extension Request Petition for Review" (Appellant Nissley) having been filed on November 17, 2015,  
  
IT IS ORDERED granting a first extension of time to file the Petition for Review on or before December 19, 2015. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the Petition for Review is not filed by December 19, 2015. (Janet Johnson, Clerk)
3. 21-Dec-2015 FILED: Petition for Review from the Court of Appeals; Certificate of Service; Certificate of Compliance; Opinion (Appellant Nissley)
4. 24-Dec-2015 FILED: Record from CofA: Electronic Record
5. 5-Jan-2016 FILED: Motion for Leave to File an Amicus Curiae Brief; Certificate of Service (Amicus Arizona Attorneys for Criminal Justice)
6. 5-Jan-2016 FILED: Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Petitioner Patrick Nissley; Certificate of Service; Certificate of Compliance (Amicus Arizona Attorneys for Criminal Justice)
7. 6-Jan-2016 A "Motion for Leave to File an Amicus Curiae Brief" (Amicus Arizona Attorneys for Criminal Justice) and the Brief of Amicus Curiae were filed on January 5, 2016.  
  
IT IS ORDERED granting the motion. The brief shall be filed as of January 5, 2016. (Janet Johnson, Clerk)
8. 20-Jan-2016 FILED: The State of Arizona's Response to Petition for Review; Certificate of Service; Certificate of Compliance (Appellee State)
9. 7-Jul-2016 ORDERED: Petition for Review from the Court of Appeals = CONTINUED.
10. 30-Aug-2016 ORDERED: Petition for Review from the Court of Appeals = GRANTED.  
  
FURTHER ORDERED: The case shall be set for oral argument.  
  
FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than 20 days from the date of this Court's Minute Letter.
11. 31-Aug-2016 NOTICE OF ORAL ARGUMENT: Set for Tuesday, October 4, 2016 at 10:15 A.M. [twenty (20) minutes per side]
12. 2-Sep-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Mikel Steinfeld will argue) (Amicus Arizona Attorneys for Criminal Justice)
13. 7-Sep-2016 FILED: Motion for Leave to Participate in Oral Argument; Certificate of Service (Amicus Arizona Attorneys for Criminal Justice)
14. 9-Sep-2016 FILED: Response to Amicus Curiae's Motion for Leave to Participate in Oral Argument; Certificate of Service (Appellee State)
15. 9-Sep-2016 FILED: Remaining Record from CofA - MCSC: Instruments and MEs (Electronic)  
  
Envelopes - 2  
  
Env No 1 - CONFIDENTIAL Envelope (Criminal History Report)  
  
Env No 2 - SEALED Defendant's Motion to Remand Dated May 18, 2011  
  
Exhibits in White Box 1:  
  
HD 6/18/2012 (in Manila Envelope) - List, Pltf Exh Nos 31-32; 39-52; 54-60 Def Exh Nos 62-63  
  
HD 8/13/2012 - List, Pltf Exh Nos 1-73; 81-88; 91.002; 91.003; 91.004; 102 (CD); 103 (DVD); 105 (CD); 106 (DVD); 109; 111-122; 125-136; 140-155; 157-158; 159.001; 163-165; 167-193; 196-209; 211-212; 219; 220 (DVD)  
Def Exh Nos 123-124; 161; 217-218  
  
White Box 2 - SEALED Juror Questionnaires  
  
CofA: Instrument (1 Part); CofA Briefs and Remaining Record Electronic
16. 12-Sep-2016 On September 7, 2016, Amicus Curiae Arizona Attorneys for Criminal Justice filed a "Motion for Leave to Participate in Oral Argument." Appellee State filed a "Response to Amicus Curiae's Motion for Leave to Participate in Oral Argument" on September 9, 2016. After consideration,  
  
IT IS ORDERED granting the motion. Counsel for Appellant Nissley may cede part of the twenty (20) minutes allotted for appellant's oral argument to counsel for Arizona Attorneys for Criminal Justice to argue as amicus curiae. (Hon. Scott Bales)
17. 19-Sep-2016 FILED: Appellee's Simultaneous Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellee State)

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18. 23-Sep-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Terry M. Crist will argue) (Appellee State)
19. 26-Sep-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Natalee E. Segal will argue) (Appellant Nissley)
20. 28-Sep-2016 FILED: Motion for Leave to File a Supplemental Amicus Curiae Brief; Certificate of Service (Amicus Curiae Arizona Attorneys for Criminal Justice)
21. 28-Sep-2016 FILED: Supplemental Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Patrick Nissley; Certificate of Service; Certificate of Compliance (Amicus Curiae Arizona Attorneys for Criminal Justice)
22. 29-Sep-2016 A "Motion for Leave to File a Supplemental Amicus Curiae Brief" (Amicus Curiae Arizona Attorneys for Criminal Justice), and the Brief of Amicus Curiae were filed on September 28, 2016.
- IT IS ORDERED granting the "Motion for Leave to File a Supplemental Amicus Curiae Brief." The brief shall be filed as of September 28, 2016. (Hon. Robert M. Brutinel)
23. 4-Oct-2016 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Terry M. Crist; Natalee E. Segal; Mikel Steinfeld)
24. 1-Feb-2017 OPINION - We vacate the court of appeals' opinion. We therefore remand to the trial court to apply the standards set forth in this opinion. (Hon. Ann A. Scott Timmer - Author; Hon. Scott Bales - Concur; Hon. John Pelander - Concur; Hon. Robert M. Brutinel - Concur; Hon. Clint Bolick - Concur)