

**Arizona Supreme Court**  
**Criminal Petition for Review-Post Conviction (ASC)**

**CR-16-0156-PR**

**STATE OF ARIZONA v VALENCIA/HEALER**

**Appellate Case Information**

Case Filed: 26-Apr-2016  
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, Respondent**

(Litigant Group) STATE OF ARIZONA

- State of Arizona

**Attorneys for: Respondent**

Barbara LaWall, Esq. (AZ Bar No. 4906)  
Jacob R Lines, Esq. (AZ Bar No. 22560)

**Side 2. GREGORY NIDEZ VALENCIA JR., Petitioner**

(Litigant Group) GREGORY NIDEZ VALENCIA JR.

- Gregory Nidez Valencia

**Attorneys for: Petitioner**

Dean J Brault, Esq. (AZ Bar No. 17152)  
Alex D Heveri, Esq. (AZ Bar No. 13869)

**Side 3. JOEY LEE HEALER, Petitioner**

(Litigant Group) JOEY LEE HEALER

- Joey Lee Healer

**Attorneys for: Petitioner**

Steven R Sonenberg, Esq. (AZ Bar No. 16031)  
David J Euchner, Esq. (AZ Bar No. 21768)

**Side 4. ARIZONA ATTORNEY GENERAL, Amicus Curiae**

(Litigant Group) ARIZONA ATTORNEY GENERAL

- Attorney General, Arizona Attorney General's Office, Mark Brnovich

**Attorneys for: Amicus AZ Atty General**

Mark Brnovich, Esq. (AZ Bar No. 14134)  
John R Lopez, IV, Esq. (AZ Bar No. 19182)  
Joseph T Maziarz, Esq. (AZ Bar No. 9212)  
David Simpson, Esq. (AZ Bar No. 30571)

**Side 5. ARIZONA STATE PRISONERS, Amicus Curiae**

(Litigant Group) ARIZONA STATE PRISONERS

- Tonatihu Aguilar
- Travis Wade Amaral
- Jonathan Andrew Arias
- Freddie Richard Crespin
- Scott Lee Dshaw
- Eulandas J Flowers
- Michael Paul Jessup
- Bobby Charles Purcell
- Cedric Joseph Rue, Jr.
- Richard Rojas
- Bobby Jerry Tatum

**Attorneys for: Amicus AZ Prisoners**

Keith James Hilzendeger, Esq. (AZ Bar No. 23685)  
Thomas J Phalen, Esq. (AZ Bar No. 11038)  
Molly Patricia Brizgys, Esq. (AZ Bar No. 29216)  
Sarah E Stone, Esq. (AZ Bar No. 22713)

**Side 6. ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE, Amicus Curiae**

(Litigant Group) ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE

- Arizona Attorneys for Criminal Justice

**Attorneys for: Amicus AACJ**

Mikel Steinfeld, Esq. (AZ Bar No. 24996)  
Katherine Puzauskas, Esq. (AZ Bar No. 26345)

**CASE STATUS**

Dec 23, 2016....Decision Rendered

Sep 20, 2016....Oral Argument Granted

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**CASE STATUS**

Apr 26, 2016.....Pending

| PREDECESSOR CASE(S) | Cause/Charge/Class   | Judgment/Sentence | Judge, Role <Comments>  | Trial | Dispo |
|---------------------|----------------------|-------------------|---|-------|-------|
| 2 CA                | 2 CA-CR 15-0151 PRPC |                   |   |       |       |
| ↵ PIM               | CR48232              |                   | James E Marner, Judge on PC<br>Catherine M Woods, Judge on PC<br>Comments: (none) | JURY  |       |
| 2 CA                | 2 CA-CR 15-0182 PRPC |                   |   |       |       |
| ↵ PIM               | CR051447             |                   | James E Marner, Judge on PC<br>Comments: (none)                                   | JURY  |       |

**CASE DECISION**

**23-Dec-2016 OPINION**

We vacate the opinion of the court of appeals, reverse the trial court's rulings dismissing the petitions for post-conviction relief, and remand the cases to the trial court for further proceedings to determine if petitioners are entitled to relief.

Filed: **23-Dec-2016**

Mandate: \_\_\_\_\_

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

|   |
|---|
| Decision Disposition  |
| <b>CofA Vacated</b><br><b>Reversed</b><br><b>Remand with Instructions</b> |

**45 PROCEEDING ENTRIES**

- 26-Apr-2016 FILED: Motion to Extend Time for Filing Petition for Review; Certificate of Service (Respondent State)
- 27-Apr-2016 A "Motion to Extend Time for Filing Petition for Review" (Respondent State) having been filed on April 26, 2016,  
  
IT IS ORDERED granting a first extension of time to file the Petition for Review on or before May 27, 2016. 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 May 27, 2016. (Janet Johnson, Clerk)
- 26-May-2016 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Respondent State)
- 26-May-2016 FILED: Record from CofA: Links to Electronic Records (2)
- 21-Jun-2016 FILED: Response to State's Petition for Review; Certificate of Service; Certificate of Compliance (Petitioner Valencia)
- 21-Jun-2016 FILED: (Copy of) Court of Appeals Opinion (Petitioner Valencia)
- 27-Jun-2016 FILED: Response to Petition for Review to Arizona Supreme Court; Certificate of Service; Certificate of Compliance (Petitioner Healer)
- 27-Jun-2016 FILED: Motion to Exceed Word Limit (3,814 Word Response Filed); Certificate of Service (Petitioner Healer)
- 29-Jun-2016 A "Motion to Exceed Word Limit" (Petitioner Healer) having been filed, and the Clerk of the Court having been authorized by the Supreme Court to enter orders granting or denying requests for extended word count,  
  
IT IS ORDERED granting Petitioner Healer's motion to exceed the word count limit on the Response to the Petition for Review by 314 words for a total of 3,814 words. The Response to the Petition for Review shall be filed this date. (Janet Johnson, Clerk)
- 5-Jul-2016 FILED: Request for Appointment of New Counsel (Petitioner Valencia, Pro Se)
- 5-Jul-2016 FILED: Motion for Clarification and/or Motion to Amend Petition for Review (Petitioner Valencia, Pro Se)

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12. 14-Jul-2016 FILED: Brief of Amicus Curiae Arizona Attorney General in Support of Petition for Review; Certificate of Service; Certificate of Compliance; Appendix A (Amicus Arizona Attorney General)
13. 14-Jul-2016 FILED: Consent for Arizona Attorney General to File Amicus Brief (Amicus Arizona Attorney General)
14. 15-Jul-2016 FILED: Brief in Support of Neither Party of Amici Curiae Arizona State Prisoners with Pending Claims Under Miller v. Alabama in Federal Court; Certificate of Service; Certificate of Compliance (Amicus Arizona State Prisoners)
15. 15-Jul-2016 FILED: Identities of Amici Curiae (and Consent of Parties to File Amici Brief) (Amicus Arizona State Prisoners)
16. 15-Jul-2016 FILED: Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Valencica and Healer; Certificate of Service; Certificate of Compliance; Appendix A (Amicus Arizona Attorneys for Criminal Justice)
17. 15-Jul-2016 FILED: Motion for Leave to File an Amicus Curiae Brief (Amicus Arizona Attorneys for Criminal Justice)
18. 18-Jul-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 July 15, 2016.  
  
IT IS ORDERED granting the "Motion for Leave to File an Amicus Curiae Brief." The brief shall be filed as of July 15, 2016. (Janet Johnson, Clerk)
19. 21-Jul-2016 Petitioner Valencia having filed a "Request for Appointment of New Counsel" and a "Motion for Clarification and/or Motion to Amend Petition for Review" on July 5, 2016,  
  
IT IS ORDERED denying the "Motion for Appointment of New Counsel."  
  
IT IS FURTHER ORDERED granting the "Motion for Clarification" but denying the "Motion to Amend Petition for Review" as moot on the grounds that granting the "Motion for Clarification" is fully sufficient to correct the record before this Court. (Hon. Ann A. Scott Timmer)
20. 27-Jul-2016 RECEIVED: Letter from Petitioner Healer Re: Pro Se Motions
21. 28-Jul-2016 SENT: Letter to Petitioner Healer Re: Pro Se Motions (See Docket No 20)
22. 28-Jul-2016 FILED: Envelope addressed to Cedric Joseph Rue returned marked "Incorrect Inmate". Re Mailing to Prison Indicating Inmate is Amicus (See Dkt No 18)
23. 4-Aug-2016 FILED: Motion to Extend Time to Respond to Amicus Curiae Briefs Filed; Certificate of Service (Petitioner Valencia)
24. 4-Aug-2016 A "Motion to Extend Time to Respond to Amicus Curiae Briefs Filed" (Petitioner Valencia) having been filed on August 4, 2016,  
  
IT IS ORDERED granting a first extension of time to file the Response to Amicus Curiae Briefs on or before September 6, 2016. No further extensions of time shall be granted absent extraordinary circumstances. (Janet Johnson, Clerk)
25. 4-Aug-2016 FILED: Response to Briefs of Amici Curiae Arizona Attorney General and Arizona State Prisoners With Pending Claims Under Miller v. Alabama in Federal Court; Certificate of Service; Certificate of Compliance (Petitioner Healer)
26. 4-Aug-2016 FILED: Motion to Exceed Word Limit for Response to Amicus Curiae Briefs (4,538 Word Response Filed); Certificate of Service (Petitioner Healer)
27. 5-Aug-2016 A "Motion to Exceed Word Limit for Response to Amicus Curiae Briefs" (Petitioner Healer) having been filed, and the Clerk of the Court having been authorized by the Supreme Court to enter orders granting or denying requests for extended word count,  
  
IT IS ORDERED granting Petitioner's motion to exceed the word count limit on the Response to Amicus Curiae Briefs by 1,038 words for a total of 4,538 words. The Response shall be filed as of August 4, 2016. (Janet Johnson, Clerk)
28. 6-Sep-2016 FILED: Response to Briefs of Amici Curiae Arizona Attorney General and Arizona State Prisoners with Pending Claims Under Miller v. Alabama in Federal Court; Certificate of Service; Certificate of Compliance (Petitioner Valencia)
29. 20-Sep-2016 ORDERED: Petition for Review = 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.
30. 21-Sep-2016 NOTICE OF ORAL ARGUMENT: Set for Tuesday, November 1, 2016 at 2:55 P.M. [twenty minutes (20) per side]

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31. 21-Sep-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (David J. Euchner will argue) (Petitioner Healer)
32. 21-Sep-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Jacob R. Lines will argue) (Respondent State)
33. 23-Sep-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Alex D. Heveri will argue) (Petitioner Valencia)
34. 28-Sep-2016 SENT: Letter to Attorneys re Parking at UofA Oral Argument
35. 10-Oct-2016 FILED: Appellant Gregory Nidez Valencia's Supplemental Brief Following Acceptance by this Court for Review; Certificate of Service; Certificate of Compliance; Declaration of Katherine Puzauskas (Petitioner Valencia)
36. 10-Oct-2016 FILED: Supplemental Brief; Certificate of Service; Certificate of Compliance (Respondent State)
37. 10-Oct-2016 FILED: Petitioner Joey Healer's Supplemental Brief; Certificate of Service; Certificate of Compliance (Petitioner Healer)
38. 20-Oct-2016 FILED: Notice of Supplemental Authority; Certificate of Service (Petitioner Healer)
39. 26-Oct-2016 FILED: Notice of Supplemental Authority (Second); Certificate of Service (Petitioner Healer)
40. 31-Oct-2016 FILED: Notice of Supplemental Authority (Third); Certificate of Service (Petitioner Healer)
41. 1-Nov-2016 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Jacob R. Lines; Alex D. Heveri; David J. Euchner)
42. 8-Dec-2016 FILED: Notice of Supplemental Authority (Fourth); Certificate of Service (Petitioner Healer)
43. 23-Dec-2016 OPINION - We vacate the opinion of the court of appeals, reverse the trial court's rulings dismissing the petitions for post-conviction relief, and remand the cases to the trial court for further proceedings to determine if petitioners are entitled to relief. (Hon. Scott Bales - Author; Hon. John Pelander - Concur; Hon. Robert M. Brutinel - Concur; Hon. Ann A. Scott Timmer - Concur; Hon. Clint Bolick - Concur)  
  
(Corrected Opinion - On page 4 of the opinion, a space was added between paragraphs 7 and 8)
44. 6-Jan-2017 FILED: Motion for Reconsideration; Certificate of Service (Petitioner Valencia)
45. 9-Jan-2017 FILED: Motion for Reconsideration; Certificate of Service (Petitioner Healer)