

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-16-0052-PR

THOMAS HORNE/KATHLEEN WINN v SHEILA POLK

Appellate Case Information

Case Filed: 3-Mar-2016
 Case Closed:

Dept/Composition

En Banc
 Hon. Scott Bales
 Hon. John Pelander
 Hon. Robert M. Brutinel
 Hon. Clint Bolick
 Hon. Peter J Eckerstrom
 Hon. Joseph W Howard
 Hon. Timothy M Wright

Side 1. THOMAS HORNE, individually and THOMAS HORNE, for Attorney General Committee (SOS Filer ID 2010 00003); KATHLEEN WINN, individually, and Business Leaders for Arizona (SOS Filer ID 2010 00375), Plaintiff/Appellant

(Litigant Group) THOMAS HORNE/KATHLEEN WINN

- Thomas C Horne
 AZ Bar No. 2951
 [Current Member]
 Admitted 4/22/72

Attorneys for: Appellant Horne
 Dennis I Wilenchik, Esq. (AZ Bar No. 5350)

- Thomas Horne, for Attorney General Committee

(Litigant Group) KATHLEEN WINN, individually, and Business Leaders for Arizona (SOS Filer ID 2010 00375)

- Kathleen Winn
- Business Leaders for Arizona

Attorneys for: Appellant Winn
 Timothy A LaSota, Esq. (AZ Bar No. 20539)

(Litigant Group) ARIZONA SOLICITOR GENERAL

- The Arizona Solicitor General, Amicus Curiae

Attorneys for: Amicus Curiae
 John R. Lopez, IV, Esq. (AZ Bar No. 19182)
 Dominic Emil Draye, Esq. (AZ Bar No. 33012)
 Jennifer M Perkins, Esq. (AZ Bar No. 23087)

Side 2. SHEILA SULLIVAN POLK, Yavapai County Attorney, Defendant/Appellee

(Litigant Group) SHEILA SULLIVAN POLK

- Sheila Sullivan Polk, Yavapai County Attorney's Office

Attorneys for: Appellee Polk
 Sheila Sullivan Polk, Esq. (AZ Bar No. 7514)
 Benjamin D Kreutzberg, Esq. (AZ Bar No. 27984)

Side 3. INSTITUTE FOR JUSTICE, Amicus Curiae

(Litigant Group) INSTITUTE FOR JUSTICE

- Institute for Justice

Attorneys for: Amicus Curiae
 Paul V Avelar, Esq. (AZ Bar No. 23078)
 Timothy D Keller, Esq. (AZ Bar No. 19844)
 Keith Everett Diggs, Esq. (AZ Bar No. 32692)

CASE STATUS

Feb 7, 2017.....Submitted	Dec 13, 2016....At Issue
Dec 13, 2016....Oral Argument Granted	Mar 3, 2016.....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA 1 CA-CV 14-0837					
↵ MAR LC2014-000255-001	Judicial Review of Administrative Decision		Crane McClennen, Authoring Judge of Order Comments: (none)		

48 PROCEEDING ENTRIES

1.	3-Mar-2016	FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Memo Dec (Appellants Horne/Winn)
2.	8-Mar-2016	RECEIPT No.: ASC2016-00192 ; \$280.00, Authorization: 67021097077, Applied to: THOMAS HORNE, individually and THOMAS HORNE, for A - Overpayment Class A (\$280.00) Paid for: THOMAS HORNE, individually and THOMAS HORNE, for Attorney General Committee (SOS Filer ID 2010 00003) - By Intresys Inc (Memo: FormSet No. 1725071)

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-16-0052-PR

THOMAS HORNE/KATHLEEN WINN v SHEILA POLK

48 PROCEEDING ENTRIES

3. 10-Mar-2016 FILED: Record from CofA: Electronic Record
4. 14-Mar-2016 VOID RECEIPT No.: ASC2016-00192 - \$-280.00, Authorization: 67021097077, - Applied to: THOMAS HORNE, individually and THOMAS HORNE, for A - Overpayment Class A (\$-280.00) Paid for: THOMAS HORNE, individually and THOMAS HORNE, for Attorney General Committee (SOS Filer ID 2010 00003)
- By: Intresys Inc (Memo: FormSet No. 1725071) VOID Reason: 3/14/16 - Party is filing individually and should be charged so an overpayment is the wrong category. kg
5. 14-Mar-2016 RECEIPT No.: ASC2016-00223 ; \$280.00, Authorization: 67021097077, Applied to: THOMAS HORNE, individually and THOMAS HORNE, for A - Class A Filing Fee (\$280.00) Paid for: THOMAS HORNE, individually and THOMAS HORNE, for Attorney General Committee (SOS Filer ID 2010 00003)
- By Intresys Inc (Memo: Replaces Voided Receipt ASC2016-00192)
6. 4-Apr-2016 FILED: Response to Petition for Review; Certificate of Service; Certificate of Compliance (Appellee Polk)
7. 5-Apr-2016 FILED: Certification of Service; (Duplicate) Certification of Service (Appellants Horne/Winn)
8. 6-Apr-2016 FILED: Amended Request for Attorney's Fees; Certificate of Service (Appellants Horne/Winn)
9. 6-Apr-2016 FILED: Appellants Motion Pursuant to Rule 24(f)(4) for Leave to File Reply Brief; Certificate of Service; Reply in Support of Petition for Review (Appellants Horne/Winn)
10. 7-Apr-2016 An "Appellants Motion Pursuant to Rule 24(f)(4) for Leave to File Reply Brief" (Appellants Horne/Winn) having been filed on April 6, 2016. After consideration,

IT IS ORDERED granting the motion. The "Reply in Support of Petition for Review" shall be filed as of April 6, 2016. (Hon. Clint Bolick)
11. 8-Apr-2016 FILED: Response to Motion for Leave to File Reply Brief; Certificate of Service (Appellee Polk)
12. 8-Apr-2016 FILED: Objection to Amended Request for Attorneys' Fees; Certificate of Service (Appellee Polk)
13. 21-Apr-2016 FILED: Brief Amicus Curiae of the Institute for Justice in Support of Petition for Review; Certificate of Service; Certificate of Compliance (Amicus Curiae Institute for Justice)
14. 21-Apr-2016 FILED: Motion for Leave to File Amicus Curiae Brief on Behalf of the Institute for Justice in Support of Petition for Review (Amicus Curiae Institute for Justice)
15. 22-Apr-2016 A "Motion for Leave to File Amicus Curiae Brief on Behalf of the Institute for Justice in Support of Petition for Review" (Amicus Curiae Institute for Justice) and the Brief of Amicus Curiae were filed on April 21, 2016.

IT IS ORDERED granting the "Motion for Leave to File Amicus Curiae Brief on Behalf of the Institute for Justice in Support of Petition for Review." The brief shall be filed as of April 21, 2016. (Janet Johnson, Clerk)
16. 28-Apr-2016 FILED: Motion to File Two Page Supplemental Brief Pursuant to Rule 23(k)(4); Certificate of Service; Supplemental Brief (Appellants Horne/Winn)
17. 28-Apr-2016 FILED: (Duplicate) Supplemental Brief; Certification of Service; Certificate of Compliance (Appellants Horne/Winn)
18. 29-Apr-2016 A "Motion to File Two Page Supplemental Brief Pursuant to Rule 23(k)(4)" (Appellants Horne/Winn) having been filed on April 28, 2016. Upon consideration,

IT IS ORDERED denying the "Motion to File Two Page Supplemental Brief Pursuant to Rule 23(k)(4)." (Hon. Clint Bolick)
19. 13-Jun-2016 FILED: Notice of Citation of Supplemental Authority; Certificate of Service (Appellants Horne/Winn)
20. 13-Jul-2016 ORDERED: Petition for Review = CONTINUED.

FURTHER ORDERED: Amended Request for Attorneys' Fees (Appellants Horne/Winn) = CONTINUED.

Justice Timmer did not participate in the determination of this matter.
21. 30-Aug-2016 ORDERED: Petition for Review = CONTINUED.

FURTHER ORDERED: Amended Request for Attorneys' Fees (Appellants Horne/Winn) = CONTINUED.

Justice Timmer did not participate in the determination of this matter.

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-16-0052-PR

THOMAS HORNE/KATHLEEN WINN v SHEILA POLK

48 PROCEEDING ENTRIES

22. 20-Sep-2016 ORDERED: Petition for Review = CONTINUED.
FURTHER ORDERED: Amended Request for Attorneys' Fees (Appellants Horne/Winn) = CONTINUED.
Justice Timmer did not participate in the determination of this matter.
23. 18-Oct-2016 ORDERED: Petition for Review = CONTINUED.
FURTHER ORDERED: Amended Request for Attorneys' Fees (Appellants Horne/Winn) = CONTINUED.
Formal Order to Follow.
Justice Timmer did not participate in the determination of this matter.
24. 18-Oct-2016 A petition for review having been filed and now pending with the Court in this case,
IT IS ORDERED: The Arizona Attorney General's Office is invited to submit its views on whether the Court should grant review on the issue raised in the petition for review, and whether Williams v. Pennsylvania, 136 S. Ct. 1899 (2016), has any impact on that issue.
IT IS FURTHER ORDERED: Any brief by the Attorney General's Office, as well as any amicus briefs, shall be filed by no later than November 15, 2016. Any response to any such briefs shall be filed by no later than November 30, 2016. (Hon. John Pelander)
25. 15-Nov-2016 ORDERED: Petition for Review = CONTINUED.
FURTHER ORDERED: Amended Request for Attorneys' Fees (Appellants Horne/Winn) = CONTINUED.
Justice Timmer did not participate in the determination of this matter.
26. 15-Nov-2016 FILED: Motion for Leave to File Supplemental Brief of Amicus Curiae Institute for Justice in Support of Petition for Review; Certificate of Service (Amicus Curiae Institute for Justice)
27. 15-Nov-2016 FILED: Supplemental Brief of Amicus Curiae Institute for Justice in Support of Petition for Review; Certificate of Service; Certificate of Compliance (Amicus Curiae Institute for Justice)
28. 15-Nov-2016 FILED: Brief of Amicus Curiae the Arizona Solicitor General in Support of Petitioner; Certificate of Service; Certificate of Compliance (Amicus Curiae Arizona Solicitor General)
29. 15-Nov-2016 FILED: (Copy of) Arizona Supreme Court Order (Filed 10/18/16) (Amicus Curiae Arizona Solicitor General)
30. 16-Nov-2016 A "Motion for Leave to File Supplemental Brief of Amicus Curiae Institute for Justice in Support of Petition for Review" and the Supplemental Brief of Amicus Curiae were filed on November 15, 2016.
IT IS ORDERED granting the "Motion for Leave to File Supplemental Brief of Amicus Curiae Institute for Justice in Support of Petition for Review." The brief shall be filed as of November 15, 2016. (Hon. Clint Bolick)
31. 30-Nov-2016 FILED: Appellee's Response to Briefs of Amici Curiae; Certificate of Service; Certificate of Compliance (Appellee Polk)
32. 30-Nov-2016 FILED: Petitioner's Response to Amicus; Certificate of Service; Certificate of Compliance (Appellants Horne/Winn)
33. 13-Dec-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, on or before January 13, 2017.
FURTHER ORDERED: Amended Request for Attorneys' Fees (Appellants Horne/Winn) = CONTINUED.
Justice Timmer did not participate in the determination of this matter.
34. 23-Dec-2016 FILED: Remaining Record from CofA:
Instrument (1 part)
35. 13-Jan-2017 FILED: Appellee's Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellee Polk)

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-16-0052-PR

THOMAS HORNE/KATHLEEN WINN v SHEILA POLK

48 PROCEEDING ENTRIES

36. 13-Jan-2017 FILED: Appellant's Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellants Horne/Winn)
37. 19-Jan-2017 NOTICE OF ORAL ARGUMENT: Set for Tuesday, February 7, 2017, at 10:15 A.M. [twenty minutes (20) per side]
38. 20-Jan-2017 FILED: Notice of Filing Acknowledgment of Oral Argument (Benjamin D. Kreutzberg will argue) (Appellee Polk)
39. 20-Jan-2017 FILED: Motion to Participate in Oral Argument; Certificate of Service (Amicus Curiae Institute for Justice)
40. 20-Jan-2017 FILED: (Incorrect pleading attached) Motion for Leave to File Supplemental Merit Briefs of Amicus Curiae Institute for Justice in Support of Petitioners; Certificate of Service; Amicus Brief (Amicus Curiae Institute for Justice)
41. 23-Jan-2017 FILED: Amended Motion to File Supplemental Merits Brief of Amicus Curiae Institute for Justice in Support of Petitioners; Certificate of Service; Supplemental Merits Brief of Amicus Curiae Institute for Justice in Support of Petitioners (Amicus Curiae Institute for Justice)
42. 23-Jan-2017 FILED: Notice of Filing Acknowledgment of Oral Argument (Pending -Paul Avelar will argue) (Amicus Curiae Institute for Justice)

See Dkt. No 45
43. 24-Jan-2017 Justice Ann A. Scott Timmer, Justice Andrew W. Gould and Justice John R. Lopez has recused themselves and will not participate in argument or decision of the above captioned matter. Therefore, pursuant to Article 6, Section 3 of the Arizona Constitution,

IT IS ORDERED that the Honorable Peter J. Eckerstrom, Chief Judge of the Arizona Court of Appeals, Division Two, Tucson, the Honorable Joseph W. Howard, Judge of the Arizona Court of Appeals, Division Two, Tucson, and the Honorable Timothy M. Wright, Judge of the Gila County Superior Court, are designated to sit on the case and participate until the matter is finally determined. (Hon. Scott Bales)
44. 25-Jan-2017 An "Amended Motion to File Supplemental Merits Brief of Amicus Curiae Institute for Justice in Support of Petitioners" (Amicus Curiae Institute for Justice) and the Supplemental Brief having been filed on January 23, 2017. Upon consideration,

IT IS ORDERED granting the motion. The Supplemental brief shall be filed as of January 23, 2017. (Hon. Robert M. Brutinel)
45. 25-Jan-2017 Amicus Curiae Institute for Justice filed a "Motion to Participate in Oral Argument" on January 20, 2017. After consideration,

IT IS ORDERED denying the request to increase the time for oral argument.

IT IS FURTHER ORDERED denying the request to participate, without prejudice to amicus filing a request to participate within the allotted oral argument time if a party wishes to cede part of their allotted time.
(Hon. Scott Bales)
46. 26-Jan-2017 FILED: Notice of Filing Acknowledgment of Oral Argument (Dennis I. Wilenchik will argue) (Appellants Horne)
47. 27-Jan-2017 FILED: Notice of Filing Acknowledgment of Oral Argument (Timothy A. LaSota will argue) (Appellant Winn)
48. 7-Feb-2017 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Dennis Wilenchik; Timothy A. La Sota; Benjamin D. Kreutzberg)