

**Arizona Supreme Court**  
**Criminal Death Penalty Appeal**

**CR-15-0268-AP**

**STATE OF ARIZONA v JASPER PHILLIP RUSHING**

<p><b>Appellate Case Information</b></p> <p>Case Filed: 3-Aug-2015</p> <p>Case Closed:</p>	<p><b>Dept/Composition</b></p> <p><b>En Banc</b></p> <p>Hon. Scott Bales  Hon. John Pelander  Hon. Robert M. Brutinel  Hon. Ann A. Scott Timmer  Hon. Clint Bolick</p>
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**Side 1. STATE OF ARIZONA, Appellee**  
(Litigant Group) STATE OF ARIZONA

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| <ul style="list-style-type: none"> <li>State of Arizona</li> </ul> | <p><b>Attorneys for: Appellee</b></p> <p>Mark Brnovich, Esq. (AZ Bar No. 14134)<br/> John R Lopez, IV, Esq. (AZ Bar No. 19182)<br/> Lacey Stover Gard, Esq. (AZ Bar No. 22714)<br/> Ginger Jarvis, Esq. (AZ Bar No. 14487)</p> |
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**Side 2. JASPER PHILLIP RUSHING, Appellant**  
(Litigant Group) JASPER PHILLIP RUSHING

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| <ul style="list-style-type: none"> <li>Jasper Phillip Rushing</li> </ul> | <p><b>Attorneys for: Appellant</b></p> <p>David Goldberg, Esq. (AZ Bar No. 12726)<br/> Sharmila Roy, Esq. (AZ Bar No. 10052)<br/> Randall J Craig, Esq. (AZ Bar No. 14760)<br/> Stephen L Duncan, Esq. (AZ Bar No. 14403)</p> |
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CASE STATUS	
Dec 31, 2015....Record Complete	Aug 3, 2015.....Pending

PREDECESSOR CASE (S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR2010-007882-001	First Degree Murder	Death	Michael W Kemp, Trial		

**115 PROCEEDING ENTRIES**

1.	3-Aug-2015	FILED: Notice of Appeal (Clerk, MCSC) (Judgment filed in MCSC on 7/23/2015)
2.	10-Aug-2015	FILED: Reporter's Transcript - 7/8/15 - Jury Trial (Laurie R. Yazwa)
3.	10-Aug-2015	FILED: Reporter's Transcript - 7/9/15 - Jury Trial (Laurie R. Yazwa)
4.	10-Aug-2015	FILED: Reporter's Transcript - 7/15/15 - Jury Trial (Laurie R. Yazwa)
5.	11-Aug-2015	FILED: Notice of Appearance; Certificate of Service (Appellee State)
6.	27-Aug-2015	FILED: Notice of Appearance of Appellant's Counsel (Attorney David Goldberg for Appellant); Certificate of Service (Appellant Rushing)
7.	27-Aug-2015	FILED: Notice of Appointment (Maricopa County Office of Public Defense Services Case Assignment for Attorney David Goldberg Assigned as Appellate Counsel for Rushing) (Appellant Rushing)
8.	31-Aug-2015	FILED: Reporter's Transcript - 05-27-2015 - Trial (Antoinette Salazar)
9.	31-Aug-2015	FILED: Reporter's Transcript - 5/18/15 - Trial (Wanda Bauer)
10.	3-Sep-2015	FILED: Reporter's Transcript- 3/08/2013 -Oral Argument on Pending Motions (Linda Lopez)

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11. 4-Sep-2015 FILED: Electronic Record from MCSC: Instruments and MEs (Combined)  
Env No. 1- HD: 11/16/2010 – (SEALED) GJ Transcript  
Box No. 1:  
Env No. 1 – HD: 8/5/2011 Def Exh Nos. 2, 3, 4  
Env. No. 2 – HD: 9/30/2011 Def Exh No. 1  
Env. No. 3 – HD: 4/3/2015 Pltf Exh Nos. 1, 2, 3, 4  
Env No. 4 – HD: 5/6/2015 Pltf Exh Nos. 1-6, 6.001, 7-43  
Env. No. 5 – HD: 5/11/2015, – Pltf Exh Nos. 1-49, 81-84, 84.001, 84.002, 90-91, 96, 104-106, 109, 111, 114-115, 117-119, 124-125  
Def Exh Nos. 92-94, 101, 126  
Box No. 2:  
HD: 8/5/2011 Def Exh No. 1 (CD)  
HD 3/8/2013 Pltf Exh No. 1 (DVD)  
HD: 4/3/2015 Pltf Exh No. 4 (DVD)  
HD: 5/6/2015 Pltf Exh No. 44 (DVD)  
HD: 5/11/2015 Pltf Exh Nos 50 (DVD), 76 (CD), 87 (white binder), 88 (white binder), 120-123 (CDs)  
Court Exh No. 127 (Empty Envelope)
12. 5-Sep-2015 FILED: Reporter's Transcript - 3/28/2011 - Conference (Cindy Lineburg)
13. 5-Sep-2015 FILED: Reporter's Transcript - 5/11/15 - State v. Rushing Trial Day 1 (Incorrect Superior Court Case No. should be CR2010-007882) (Kristen Brown)
14. 7-Sep-2015 FILED: Reporter's Transcript - 5/14/15 State V. Rushing Oral Argument (Kristen Brown)
15. 7-Sep-2015 FILED: Reporter's Transcript - 5/12/15 - State v. Rushing Trial Day 2 (Kristen Brown)
16. 7-Sep-2015 FILED: Reporter's Transcript - 5/13/2015 - State v. Rushing Trial Day 3 (Kristen Brown)
17. 7-Sep-2015 FILED: Reporter's Transcript - 5/26/2015 - Trial Day 8 (Lori Thielmann)
18. 7-Sep-2015 FILED: Reporter's Transcript - 4/3/15 - Chronis Hearing (Scott Coniam)
19. 7-Sep-2015 FILED: Reporter's Transcript - 4/27/15 - Status Conf (Scott Coniam)
20. 7-Sep-2015 FILED: Reporter's Transcript - 4/9/2015 - Conference (April Hunt)
21. 7-Sep-2015 FILED: Reporter's Transcript 3-8-13 Motions (Barbara H. Stockford)
22. 8-Sep-2015 FILED: Sealed Transcript Notification - 12/19/13 - Status conference - (Jennifer Pancratz)
23. 8-Sep-2015 FILED: Reporter's Transcript - 12/19/13 - Status Conference - Jennifer Pancratz
24. 8-Sep-2015 FILED: Notice of Errata (Error on case number in transcript 5/11/15)(Kristen L. Brown)
25. 8-Sep-2015 FILED: Reporter's Transcript - 5/11/15 - State v. Rushing Trial Day 1 (With Corrected Superior Court No.) (Kristen Brown)
26. 8-Sep-2015 FILED: Court reporter Jennifer Pancratz having advised the Court that a portion of the proceeding of December 19, 2013 was sealed by the superior court,

IT IS ORDERED that the court reporter's notes for that proceeding are unsealed for the purpose of preparing the transcript. The transcript shall be filed under seal no later than September 22, 2015.

IT IS FURTHER ORDERED that the court reporter shall not send copies of the sealed transcript to appellate counsel, and the Clerk of this Court shall maintain the transcript as a sealed document, until further order of the Court. Either party may file a motion to have the transcript unsealed and copies provided to counsel. (Hon. Rebecca White Berch)

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27. 9-Sep-2015 FILED: Reporter's Transcript - 5/18/15 - State v. Rushing Trial Day 4(Kristen Brown)
28. 9-Sep-2015 FILED: Reporter's Transcript - 4/30/15 - Status Conf (Scott Coniam)
29. 9-Sep-2015 FILED: Reporter's Transcript - 5/6/15 - Status Conf (Scott Coniam)
30. 9-Sep-2015 FILED: Reporter's Transcript - 6/28/2011 - State v. Rushing Pretrial Conference (Kristen Brown)
31. 9-Sep-2015 FILED: First Motion for Extension of Time to File Transcripts (Laura Ashbrook)
32. 9-Sep-2015 FILED: Reporter Transcript - Jury Trial - Day 7 - 5/21/15 (Pamela Remus)
33. 9-Sep-2015 FILED: Reporter's Transcript - 5/19/2015 - State v. Rushing Trial Day 5 (Kristen Brown)
34. 9-Sep-2015 FILED: Reporter's Transcript - 6/2/15 - Status (Scott Coniam)
35. 10-Sep-2015 FILED: Reporter's Transcript - 06/27/12 - Case Management Conference (Scott A. Kindle)
36. 10-Sep-2015 Laura Ashbrook, Court Reporter, having filed a first request for extension of time to file transcripts,  
  
IT IS ORDERED granting Laura Ashbrook, Court Reporter, a first extension of time to file transcripts to and including October 26, 2015, in which to file Reporter's Transcripts in the above-entitled matter.  
(Janet Johnson, Clerk)
37. 10-Sep-2015 FILED: Appellant's Motion to Unseal the Record and Exhibits and for Copies; Certificate of Service (Appellant Rushing)
38. 10-Sep-2015 FILED: Reporter's Transcript - 5/20/2015 State v Rushing Trial Day 5 (Kristen Brown)
39. 10-Sep-2015 FILED: Reporter's Transcript - 7/22/15 - Verdict/Sentencing (Scott Coniam)
40. 10-Sep-2015 FILED: Reporter's Transcript - 7/21/15 - Status (Scott Coniam)
41. 10-Sep-2015 FILED: Reporter's Transcript - 6/8/15 - Agg Phase (Scott Coniam)
42. 15-Sep-2015 FILED: Reporter's Transcript (7-6-15) Trial - Scott Coniam
43. 16-Sep-2015 FILED: Reporter's Transcript 09-12-14 Case Management Conference (David Lee)
44. 16-Sep-2015 FILED: Reporter's Transcripts 05/27/2015 Trial - Morning Session (Terry Masciola)
45. 17-Sep-2015 FILED: Reporter's Transcript - 6/1/15 - Closings/Verdict (Scott Coniam)
46. 18-Sep-2015 FILED: Amended SEALED Reporters Transcript Status Conference -12/19/13 - (Jennifer A Pancratz)
47. 21-Sep-2015 FILED: Reporter's Transcript - 7/7/2015 - Trial Scott Coniam
48. 22-Sep-2015 FILED: Reporter's Transcript - 7/14/2015 - Trial (Scott Coniam)
49. 23-Sep-2015 FILED: Reporter's Transcript - 3/15/2013 -6.2 Hearing (Lydia Estrada-Gray)
50. 23-Sep-2015 FILED: Reporter's Transcript - 3/28/2013 - Informal Conference (Lydia Estrada-Gray)
51. 23-Sep-2015 FILED: Reporter's Transcript - 4/16/2013 -Motion (Lydia Estrada-Gray)
52. 23-Sep-2015 FILED: Reporter's Transcript - 4/23/2013 -Status Conference (Lydia Estrada-Gray)
53. 23-Sep-2015 FILED: Reporter's Transcript -1/22/2014 -Hearing (Lydia Estrada-Gray)
54. 23-Sep-2015 FILED: Reporter's Transcript - 3/10/2014 -Status Conference (Lydia Estrada-Gray)
55. 23-Sep-2015 FILED: Reporter's Transcript - 7/2/2014 -Status Conference (Lydia Estrada-Gray)
56. 23-Sep-2015 FILED: Reporter's Transcript- 8/8/2014 -Oral Argument (Lydia Estrada-Gray)
57. 23-Sep-2015 FILED: Extension Request Death Penalty (to file Reporter's Transcripts) (Scott Coniam)

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58. 24-Sep-2015 Scott Coniam, Court Reporter, having filed a first request for extension of time to file transcripts,  
  
IT IS ORDERED granting Scott Coniam, Court Reporter, a first extension of time to and including October 13, 2015, in which to file Reporter's Transcripts in the above-entitled matter.  
(Janet Johnson, Clerk)
59. 1-Oct-2015 Upon considering Appellant's Motion to Unseal the Record and Exhibits and for Copies,  
  
IT IS ORDERED that the Clerk of this Court shall temporarily unseal the following documents and provide electronic copies to Appellant's counsel: grand jury transcript; juror questionnaires; random jury list; any sealed documents in the electronic record transmitted from the Maricopa County Superior Court. The Clerk shall provide copies to the State's counsel upon request. Pursuant to Rule 123(e)(10), Rules of the Supreme Court, counsel shall maintain the confidentiality of all information that personally identifies jurors.  
  
IT IS FURTHER ORDERED that court reporter Jennifer Pancratz shall send copies of the December 19, 2013 sealed transcript to Appellant's counsel and the State's counsel. □  
(Hon. John Pelander)
60. 12-Oct-2015 FILED: Reporter's Transcript - 7/15/15 - Trial PM Only (Scott Coniam)
61. 12-Oct-2015 FILED: Reporter's Transcript - 7/20/15 - Trial Closings (Scott Coniam)
62. 13-Oct-2015 FILED: Reporter's Transcript - 7/16/15 - Trial (Scott Coniam)
63. 16-Oct-2015 FILED: Transcript - 01/27/2011 Not Guilty Arraignment - (Janice Penfield Transcriptionist)
64. 25-Oct-2015 FILED: Reporter's Transcript- 5/3/2011 - Complex Case Management Conference (Laura Ashbrook)
65. 25-Oct-2015 FILED: Reporter's Transcript- 8/5/2011 -Pretrial Hearing (Laura Ashbrook)
66. 25-Oct-2015 FILED: Reporter's Transcript- 11/1/2011 - Complex Case Management Conference (Laura Ashbrook)
67. 25-Oct-2015 FILED: Reporter's Transcript- 1/6/2012 - Complex Case Management Conference (Laura Ashbrook)
68. 25-Oct-2015 FILED: Reporter's Transcript- 3/1/2012 -Complex Case Management Conference (Laura Ashbrook)
69. 25-Oct-2015 FILED: Reporter's Transcript- 4/30/2012 -Complex Case Management Conference (Laura Ashbrook)
70. 25-Oct-2015 FILED: Reporter's Transcript- 8/29/2012 -Complex Case Management Conference (Laura Ashbrook)
71. 25-Oct-2015 FILED: Reporter's Transcript- 9/27/2012 -Complex Case Management Conference (Laura Ashbrook)
72. 25-Oct-2015 FILED: Reporter's Transcript- 12/14/2012 -Oral Argument (Laura Ashbrook)
73. 25-Oct-2015 FILED: Reporter's Transcript- 1/25/2013 -Oral Argument (Laura Ashbrook)
74. 25-Oct-2015 FILED: Reporter's Transcript- 4/11/2013 - Oral Argument (Laura Ashbrook)
75. 25-Oct-2015 FILED: Reporter's Transcript- 4/19/2013 -Oral Argument on Motion to Dismiss (Laura Ashbrook)
76. 25-Oct-2015 FILED: Reporter's Transcript- 4/24/2013 - Capital Case Management Conference (Laura Ashbrook)
77. 25-Oct-2015 FILED: Reporter's Transcript- 5/3/2013 -Oral Argument on Motion to Dismiss Death Penalty (Laura Ashbrook)
78. 12-Nov-2015 FILED: Second Motion for Extension of Time to File Transcripts (Laura Ashbrook)
79. 12-Nov-2015 Laura Ashbrook, Court Reporter, having filed a second motion for extension of time to file transcripts,  
  
IT IS ORDERED granting Laura Ashbrook, Court Reporter, a second extension of time to and including December 10, 2015, in which to file Reporter's Transcripts in the above-entitled matter. No further extensions shall be granted.  
(Janet Johnson, Clerk)
80. 10-Dec-2015 FILED: Reporter's Transcript - 7/12/2013 - Oral Argument (Laura Ashbrook)
81. 10-Dec-2015 FILED: Reporter's Transcript - 12/9/2013 - Status Conference (Laura Ashbrook)
82. 10-Dec-2015 FILED: Reporter's Transcript - 3/31/14 - Capital Case Management Conference (Laura Ashbrook)
83. 10-Dec-2015 FILED: Reporter's Transcript - 4/30/2014 - Capital Case Management Conference (Laura Ashbrook)

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84. 10-Dec-2015 FILED: Reporter's Transcript - 6/6/2014 - Capital Case Management Conference (Laura Ashbrook)
85. 10-Dec-2015 FILED: Reporter's Transcript - 6/20/2014 - Capital Case Management Conference (Laura Ashbrook)
86. 10-Dec-2015 FILED: Reporter's Transcript - 8/1/2014 - Capital Case Management Conference (Laura Ashbrook)
87. 10-Dec-2015 FILED: Reporter's Transcript - 8/26/2014 - Capital Case Management Conference (Laura Ashbrook)
88. 10-Dec-2015 FILED: Reporter's Transcript - 11/7/2014 - Case Management Conference (Laura Ashbrook)
89. 10-Dec-2015 FILED: Reporter's Transcript - 1/9/2015 - Capital Case Management (Laura Ashbrook)
90. 10-Dec-2015 FILED: Reporter's Transcript - 1/23/2015 - Status Conference (Laura Ashbrook)
91. 10-Dec-2015 FILED: Reporter's Transcript - 1/30/2015 - Capital Case Management Conference (Laura Ashbrook)
92. 10-Dec-2015 FILED: Reporter's Transcript - 5/8/2015 -Oral Argument - Motion to Strike Notice of Intent to Seek Death Penalty (Laura Ashbrook)
93. 10-Dec-2015 FILED: Third and Final Motion for Extension of Time to File Transcripts (Court Reporter, Laura Ashbrook)
94. 11-Dec-2015 Laura Ashbrook, Court Reporter, having filed a third motion for extension of time to file transcripts,  
  
IT IS ORDERED granting Laura Ashbrook, Court Reporter, a third extension of time to and including December 31, 2015, in which to file Reporter's Transcripts in the above-entitled matter.  
(Hon. Ann Scott Timmer)
95. 31-Dec-2015 FILED: Reporter's Transcript - 9/30/2011 - Oral Argument (Laura Ashbrook)
96. 31-Dec-2015 FILED: Reporter's Transcript - 5/31/2013 - Oral Argument (Laura Ashbrook)
- RECORD COMPLETE
97. 11-Jan-2016 The Clerk of the Court has determined that the record on appeal is complete. Therefore,  
  
IT IS ORDERED that Appellant's Opening Brief shall be filed no later than April 11, 2016. The Answering Brief shall be filed no later than sixty (60) days after service of the Opening Brief. The Reply Brief shall be filed no later than thirty (30) days after service of the Answering Brief. (Hon. Robert M. Brutinel)
98. 8-Mar-2016 FILED: Appellant's Motion for Extension of Time for Filing of Opening Brief (1st Request - Uncontested); Certificate of Service (Appellant Rushing)
99. 8-Mar-2016 An "Appellant's Motion for Extension of Time for Filing of Opening Brief (1st Request – Uncontested)" (Appellant Rushing) having been filed on March 8, 2016,  
  
IT IS ORDERED granting a first extension of time to file the opening brief on or before June 10, 2016. (Janet Johnson, Clerk)
100. 6-Jun-2016 FILED: Appellant's Opening Brief; Certificate of Service; Certificate of Compliance (Appellant Rushing)
101. 29-Jun-2016 FILED: Notice of Appearance (Ginger Jarvis for Appellee State); Certificate of Service (Appellee State)
102. 5-Jul-2016 FILED: Motion for Extension of Time to File Opening (sic) Brief; Certificate of Service (Appellee State)
103. 5-Jul-2016 Appellee State has filed a "Motion for Extension of Time to File Opening (sic) Brief" on July 5, 2016. Treating the motion as a Motion for Extension of Time to File Answering Brief,  
  
IT IS ORDERED granting a first extension of time to file the Answering Brief on or before October 10, 2016. (Janet Johnson, Clerk)
104. 26-Sep-2016 FILED: (Second Request) Motion for Extension of Time to File Answering Brief; Certificate of Service (Appellee State)
105. 27-Sep-2016 A "(Second Request) Motion for Extension of Time to File Answering Brief" (Appellee State) having been filed on September 26, 2016,  
  
IT IS ORDERED granting a second extension of time to file the Answering Brief on or before October 24, 2016. (Hon. Robert M. Brutinel)
106. 24-Oct-2016 FILED: (Third Request) Motion for Extension of Time to File Answering Brief; Certificate of Service (Appellee State)
107. 24-Oct-2016 A third "Motion for Extension of Time to File Answering Brief" (Appellee State) having been filed on October 24, 2016,  
  
IT IS ORDERED granting a 10-day extension of time to file the Answering Brief until November 3, 2016. (Hon. John Pelander)

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108. 3-Nov-2016 FILED: Appellee's Answering Brief; Certificate of Service; Certificate of Compliance (Appellee Rushing)
109. 15-Nov-2016 FILED: Appellant's Motion for Extension of Time for Filing of Reply Brief (1st Request - Uncontested); Certificate of Service (Appellant Rushing)
110. 16-Nov-2016 An "Appellant's Motion for Extension of Time for Filing of Reply Brief (1st Request - Uncontested)" (Appellant Rushing) having been filed on November 15, 2016,  
  
IT IS ORDERED granting a first extension of time to file the Reply Brief on or before February 2, 2017. (Janet Johnson, Clerk)
111. 1-Dec-2016 FILED: Motion to Withdraw As Counsel for Appellant AND Appoint Qualified Capital Case Counsel; Certificate of Service (Appellant Rushing)
112. 2-Dec-2016 Upon considering the Motion to Withdraw as Counsel for Appellant and Appoint Qualified Capital Case Counsel,  
  
IT IS ORDERED granting the motion and allowing counsel David Goldberg to withdraw.  
  
IT IS FURTHER ORDERED referring this matter to the Maricopa County Office of Public Defense Services for appointment of new counsel to represent Mr. Rushing in this capital appeal. The February 2, 2017 due date for the Reply Brief will remain in effect subject to any motion for extension new counsel may file. (Hon. Clint Bolick)
113. 13-Dec-2016 FILED: Notice of Appearance (Sharmila Roy for Appellant Rushing) and MOTION for Extension of Time to File Reply Brief; Certificate of Service (Appellant Rushing)
114. 13-Dec-2016 FILED: OPDS Appointment Sheet (Appellant Rushing)
115. 15-Dec-2016 A "Notice of Appearance and Motion for Extension of Time to File Reply Brief" (Appellant Rushing) having been filed on December 13, 2016,  
  
IT IS ORDERED granting a second extension of time to file the Reply Brief on or before April 7, 2017. (Hon. Clint Bolick)