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: 2-Feb-2017

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 Deshaw**
- **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

Feb 2, 2017.....Case Closed

Dec 23, 2016....**Decision Rendered**

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Arizona Supreme Court

Criminal Petition for Review-Post Conviction (ASC)

CR-16-0156-PR STATE OF ARIZONA v VALENCIA/HEALER

CASE STATUS

Sep 20, 2016....Oral Argument Granted

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 Catherine M Woods, Judge on PC Comments: (none)	JURY	
2 CA	2 CA-CR 15-0182 PRPC					
↳ PIM	CR051447			James E Marner, Judge on PC 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.

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

Filed: **23-Dec-2016** Mandate:

Decision Disposition

CofA Vacated
Reversed
Remand with Instructions

CITE Arizona Reports: 754 Ariz 11

CITE Pacific Reporter: 386 P.3d 392

47 PROCEEDING ENTRIES

1.	26-Apr-2016	FILED: Motion to Extend Time for Filing Petition for Review; Certificate of Service (Respondent State)
2.	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)
3.	26-May-2016	FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Respondent State)
4.	26-May-2016	FILED: Record from CofA: Links to Electronic Records (2)
5.	21-Jun-2016	FILED: Response to State's Petition for Review; Certificate of Service; Certificate of Compliance (Petitioner Valencia)
6.	21-Jun-2016	FILED: (Copy of) Court of Appeals Opinion (Petitioner Valencia)
7.	27-Jun-2016	FILED: Response to Petition for Review to Arizona Supreme Court; Certificate of Service; Certificate of Compliance (Petitioner Healer)
8.	27-Jun-2016	FILED: Motion to Exceed Word Limit (3,814 Word Response Filed); Certificate of Service (Petitioner Healer)
9.	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)
10.	5-Jul-2016	FILED: Request for Appointment of New Counsel (Petitioner Valencia, Pro Se)
11.	5-Jul-2016	FILED: Motion for Clarification and/or Motion to Amend Petition for Review (Petitioner Valencia, Pro Se)

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47 PROCEEDING ENTRIES

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 Conscent 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 Valenica 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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47 PROCEEDING ENTRIES

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)
46.	2-Feb-2017	Petitioners Valencia and Healer filed Motions for Reconsideration of this Court's Opinion dated December 23, 2016. After consideration by the Court, IT IS ORDERED denying the motions. (Hon. Scott Bales) CASE STATISTICALLY TERMINATED ----------
47.	6-Feb-2017	FILED: Application to Stay the Mandate; Certificate of Service (Petitioner Healer)

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