

Arizona Supreme Court

Criminal Appeal

CR-23-0113-AP

STATE OF ARIZONA v JASPER PHILLIP RUSHING

Appellate Case Information

Case Filed: 26-Apr-2023

Case Closed:

Dept/Composition

Side 1. STATE OF ARIZONA, Appellee

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellee

Kristin K. Mayes, Esq. (AZ Bar No. 022584)
Laura P Chiasson, Esq. (AZ Bar No. 19025)
Jason Philip Gannon, Esq. (AZ Bar No. 34465)
Jennifer Nicole Carper, Esq. (AZ Bar No. 25535)
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Josh Maxwell, Esq. (AZ Bar No. 31585)

Side 2. JASPER PHILLIP RUSHING, Appellant

(Litigant Group) JASPER PHILLIP RUSHING

- Jasper Phillip Rushing

Attorneys for: Appellant

Cory Engle, Esq. (AZ Bar No. 21066)
Dawnese Hustad, Esq. (AZ Bar No. 25002)
Ariel Eilola, Esq. (AZ Bar No. 32032)
Mikel Steinfeld, Esq. (AZ Bar No. 24996)

CASE STATUS

Apr 26, 2023....Pending

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo

69 PROCEEDING ENTRIES

- 1. 26-Apr-2023 FILED: Notice of Appeal (Clerk, MCSC) (Judgment filed in MCSC on 4/18/2023)
2. 18-May-2023 FILED: Notice of Appearance (Cory Engle and Dawnese Hustad) Certificate of Service (Appellant Rushing)
...
16. 26-May-2023 FILED: Reporter's Transcript - 4/4/23 - Trail Day 4 [Kristyn Lobry]

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- 17. 26-May-2023 FILED: Reporter's Transcript - 4/5/23 - Trail Day 5 [Kristyn Lobry]
- 18. 26-May-2023 FILED: Reporter's Transcript - 4/6/23 - Trail Day 6 [Kristyn Lobry]
- 19. 26-May-2023 FILED: Reporter's Transcript - 4/12/23 - Trail Day 8 [Kristyn Lobry]
- 20. 26-May-2023 FILED: Reporter's Transcript - 4/13/23 - Trail Day 9 [Kristyn Lobry]
- 21. 26-May-2023 FILED: Reporter's Transcript - 4/17/23 - Trail Day 10 [Kristyn Lobry]
- 22. 26-May-2023 FILED: Reporter's Transcript - 4/17/23 - Sentencing [Kristyn Lobry]
- 23. 26-May-2023 FILED: Letter Requesting an Extension of Time (Scott Kindle)
- 24. 26-May-2023 Scott Kindle, Court Reporter, has filed a first request for extension of time to file transcripts. Having reviewed the request,  
  
IT IS ORDERED granting Scott Kindle, Court Reporter, a first extension of time up to and including July 3, 2023, in which to file Reporter's Transcripts for 12/2/20, 3/23/23, 3/28/23, 3/29/23, and 4/11/23 in the above-entitled matter. (Tracie K. Lindeman Clerk)
- 25. 26-May-2023 FILED: Reporter's Transcript - 12/16/22 - Hearing [Lisa Bradley]
- 26. 30-May-2023 FILED: Reporter's Transcript - 3/30/23 - Jury Trial [Monica Hill]
- 27. 31-May-2023 FILED: Electronic Record on Appeal - MCSC ME and Instruments
- 28. 31-May-2023 FILED: Exhibit Worksheet  
  
HD 08/05/2011 - LIST# 1 2 3 4 IN A MANILA ENVELOPE  
  
HD 09/30/2011 - LIST# 1 IN A MANILA ENVELOPE  
  
HD 03/08/2013 - LIST# 1 IN A MANILA ENVELOPE  
  
HD 04/03/2015 - LIST# 1 2 3 4 IN A MANILA ENVELOPE  
  
HD 05/06/2015 - LIST# 1 2 3 4 5 6 6.001 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 IN A MANILA ENVELOPE  
  
HD 11/15/2022 - LIST# 1 2 IN A MANILA ENVELOPE  
  
HD 03/28/2023 - LIST# 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 102 103 105 106 107 108 109 111 112 113 114 115 116 117 IN A BOX  
  
SEALED ITEMS:  
  
FILED 11/07/2013 - MINUTE ENTRY DATED 11/6/13 DOCKET CODE 023 MOTION; AFFIDAVIT; EX PARTE MOTION
- 29. 1-Jun-2023 FILED: Reporter's Transcript - 3/8/13 - Motions [Barbara Stockford]
- 30. 1-Jun-2023 FILED: Reporter's Transcript - 2/10/23 - Management Conference [Kassie Kosmal]
- 31. 1-Jun-2023 FILED: Reporter's Transcript - 2/22/23 - Management Conference [Kassie Kosmal]
- 32. 1-Jun-2023 FILED: Reporter's Transcript - 02/26/2019 - Case Management Conference [Catherine Turner]
- 33. 1-Jun-2023 FILED: Motion for Extension of Time (Catherine Turner)
- 34. 1-Jun-2023 FILED: Reporter's Transcript - 04/19/2019 - Pretrial Conference [Marylynn LeMoine Cotton]
- 35. 1-Jun-2023 FILED: Reporter's Transcript - 09/15/2020 - Settlement Conference[Marylynn LeMoine Cotton]
- 36. 1-Jun-2023 FILED: Reporter's Transcript - 09/27/2021 - Complex Case Management Conference [Marylynn LeMoine Cotton]
- 37. 1-Jun-2023 FILED: Reporter's Transcript - 6/12/19 - Capital Case Management Conference [Janell Rose]
- 38. 2-Jun-2023 FILED: Reporter's Transcript - 1/19/22 - Oral Argument [Michele Kaley]

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- 39. 4-Jun-2023 FILED: Reporter's Transcript - 8/15/19 - Oral Argument [Andres Anaya]
- 40. 6-Jun-2023 Catherine Turner, Court Reporter, having filed a first request for extension of time to file transcripts,  
  
IT IS ORDERED granting Catherine Turner, Court Reporter, a first extension of time up to and including July 3, 2023, in which to file Reporter's Transcripts in the above-entitled matter. (Tracie K. Lindeman Clerk)
- 41. 7-Jun-2023 FILED: Reporter's Transcript - 11/30/21 - Capital Case Management Conference [Hope Yeager]
- 42. 12-Jun-2023 FILED: Reporter's Transcript - 3/8/13 - Oral Argument [Linda Lopez]
- 43. 13-Jun-2023 FILED: Reporter's Transcript - 4/7/22 - Capital Case Management Conference [Scott Coniam]
- 44. 13-Jun-2023 FILED: Reporter's Transcript - 8/1/22 - Capital Case Management Conference [Scott Coniam]
- 45. 13-Jun-2023 FILED: Reporter's Transcript - 10/4/22 - Capital Case Management Conference [Scott Coniam]
- 46. 13-Jun-2023 FILED: Reporter's Transcript - 01/15/2019 - Case Management Conference [Jennifer Sullivan]
- 47. 14-Jun-2023 FILED: Reporter's Transcript - 11/15/22 - Status Conference [Scott Coniam]
- 48. 20-Jun-2023 FILED: Reporter's Transcript - 05/10/2019 - Oral Argument [Catherine Turner]
- 49. 22-Jun-2023 FILED: Reporter's Transcript - 3/23/20 - Capital Case Management Conference [Kimberly McCright]
- 50. 22-Jun-2023 FILED: Reporter's Transcript - 4/16/20 - Oral Argument [Kimberly McCright]
- 51. 1-Jul-2023 FILED: Reporter's Transcript - 6/9/22 - Capital Case Management Conference [Wendy Ricard]
- 52. 1-Jul-2023 FILED: Reporter's Transcript - 1/12/23 - Capital Case Management Conference [Wendy Ricard]
- 53. 1-Jul-2023 FILED: Reporter's Transcript - 12/02/2020 - Capital Case Management Conference [Scott Kindle]
- 54. 1-Jul-2023 FILED: Reporter's Transcript - 03/23/2023 - Capital Case Status Conference [Scott Kindle]
- 55. 1-Jul-2023 FILED: Reporter's Transcript - 03/28/2023 - Trial Day 1 [Scott Kindle]
- 56. 2-Jul-2023 FILED: Reporter's Transcript - 03/29/2023 - Trial Day 2 (Scott Kindle)
- 57. 2-Jul-2023 FILED: Reporter's Transcript - 04/11/2023 - Trial Day 7 (Scott Kindle)
- 58. 29-Jul-2023 FILED: Reporter's Transcript - 11/15/18 - Status Conference [Crystal Hereford]  
  
-----RECORD COMPLETE-----
- 59. 8-Aug-2023 The Clerk of the Court has determined that the record on appeal is complete in this matter.  
  
Therefore,  
  
IT IS ORDERED that Appellant's Opening Brief shall be filed no later than November 8, 2023. 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.  
  
IT IS FURTHER ORDERED that any party seeking to modify a deadline shall comply with Ariz. R. Crim. P. 31.3(e), 31.6(e) and ARCAP 6(a)(2) and (3) and ARCAP 6(b), as applicable, prior to the deadline the party seeks to modify.  
  
IT IS FURTHER ORDERED that briefs shall comply with Ariz. R. Crim. P. 31.14(a) unless the Court grants a motion to exceed word limit prior to the due date and pursuant to Ariz. R. Crim. P. 31.6 and ARCAP 6(b) upon a showing of good cause.  
  
IT IS FURTHER ORDERED that A.R.S. § 13-4042 and Ariz. R. Crim. P. 31.14(c)(2) be complied with to the extent required by law. (Hon. Kathryn H. King)
- 60. 31-Aug-2023 FILED: Motion to Unseal Documents; Certificate of Service (Appellant Rushing)
- 61. 6-Sep-2023 FILED: Response to Motion to Unseal Documents; Certificate of Service (Appellee)

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62. 14-Sep-2023 On August 31, 2023, Appellant Jasper Phillip Rushing filed a Motion to Unseal Documents requesting that the Court temporarily unseal certain documents that were sealed by the superior court and provide copies to appellate counsel for the purpose of appeal. The Appellee State of Arizona filed a Response to Motion to Unseal Documents stating that it has no objection to the Appellant's motion.

Therefore, upon review and consideration,

IT IS ORDERED that the motion to temporarily unseal documents is granted, in part, as stated herein.

IT IS FURTHER ORDERED that upon request by counsel for either party, the Clerk of the Supreme Court shall temporarily unseal the following sealed documents in the Index of Record ("ROA") and provide copies to counsel and then reseat the documents: 113, 114, 215, 216, 232, 241, 242, 251, 254, 256, 257, 259, 267, 268, 269, 270, 273, 274, 289, 305, 306, 307, 470, 549, 559, 563, 564, 565, 566, 567, 568, 570, 271, 572, 575, 577, 578, 593, 595, 604, 605, 641, 715, 716, 717, 724, 727, 730, 736, 737, 738, 742, 769, 770, 771, 785, 815, 817, 830, 831, and 835.

IT IS FURTHER ORDERED that the above order temporarily unsealing ROA 549, 559, 575, 593, and 595 does not temporarily unseal any redacted or unredacted records (e.g., including but not limited to any education, medical, or mental health records) referenced therein as filed under seal until further order of the Court.

IT IS FURTHER ORDERED that all protective orders entered by the superior court to protect victims' rights related to ROA 549, 559, 575, 593, and 595 shall remain in full force and effect subject to further order of this Court.

IT IS FURTHER ORDERED that the above order temporarily unsealing ROA 549, 559, 575, 593, and 595 to allow the Clerk of the Supreme Court to provide copies to counsel for the parties does not relieve counsel of their duties and obligations pursuant to the Arizona Victims' Bill of Rights, Ariz. Const. art. 2 § 2.1, A.R.S. §§ 13-4401 et seq. (specifically §§ 13-4411(B), (C), and (D)), A.R.S. § 13-719, and the duties and obligations to Victims' Rights as outlined in Ariz. R. Crim P. 39 (particularly Rule 39(b) and (g)).

IT IS FURTHER ORDERED that the above order temporarily unsealing ROA 251 does not temporarily unseal the sealed reporter's transcript for 10-03-2013 (Minute Entry filed 10-10-2013). The reporter's transcript for 10-03-2013 remains under seal as ordered by the superior court in ROA 251 until further order of the Court.

IT IS FURTHER ORDERED that upon request by counsel for either party, the Clerk of the Supreme Court shall temporarily unseal the juror lists (See ROA 519 and 872) and the juror questionnaires (See ROA 527, 528, 529, 530, 531, 532, 533, 534, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, and 871) and provide copies to counsel and then reseat the documents.

IT IS FURTHER ORDERED pursuant to Ariz. R. Crim. P. 18.3 and Rule 123(e)(10), Rules of the Supreme Court, counsel shall maintain the confidentiality of all juror information, including all information that personally identifies jurors and jurors' home and work telephone numbers and addresses, and may not disclose any such information to the public or any party unless good cause is shown to this Court and an order from this Court permits such disclosure.

IT IS FURTHER ORDERED pursuant to A.R.S. § 21-312(A) and (B), Ariz. R. Crim. P. 18.3(b), and Ariz. R. Sup. Ct. 123(e)(10), as part of maintaining the confidentiality of all juror information, that the parties and any person on behalf of the parties shall not contact any prospective juror or juror (e.g., including but not limited to in writing, by phone, or in person) unless good cause is shown to this Court and an order from this Court permits such direct contact.

IT IS FURTHER ORDERED that all protective orders entered by the superior court relating to any document, exhibit, or transcript sealed by the court shall remain in full force and effect subject to further order of this Court.

IT IS FURTHER ORDERED that counsel for the parties shall confer with the Clerk of the Supreme Court as to the Clerk's preferred procedures for the parties to obtain copies of the sealed documents and reporter's transcripts discussed herein.

IT IS FURTHER ORDERED counsel for the parties shall not include any information from sealed documents and reporter's transcripts in the briefs, other filings in this or any matter, or otherwise disclose such information to the public or other unauthorized parties without prior, further order from this Court. (Hon. Ann A. Scott Timmer)

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63. 14-Sep-2023 On August 31, 2023, Appellant Jasper Phillip Rushing filed a Motion to Unseal Documents requesting that the Court temporarily unseal certain documents that were sealed by the superior court.

On review of Appellant's motion and the record in this case, court staff has informed the Court that it is necessary to update and correct the record.

Therefore, on the Court's own motion,

IT IS ORDERED pursuant to the Court's authority under Ariz. R. Crim. P. 31.8, that court reporter Lydia Estrada-Gray shall prepare the reporter's transcript of the proceedings in Maricopa County Superior Court case number CR2010-007882-001 on October 3, 2013, and the prepared reporter's transcript shall be filed at the Clerk of the Supreme Court filing counter in a sealed envelope no later than October 12, 2023.

IT IS FURTHER ORDERED that court reporter Lydia Estrada-Gray's notes for the October 3, 2013, proceedings in Maricopa County Superior Court No. CR2010-007882-001 that were sealed by the superior court are temporarily unsealed for the limited purpose of court reporter Lydia Estrada-Gray preparing the reporter's transcript of the sealed proceedings.

IT IS FURTHER ORDERED that court reporter Lydia Estrada-Gray shall not, as required by Ariz. R. Crim. P. 31.8(d), send copies of the sealed transcript to either Appellant Jasper Phillip Rushing, Appellant's counsel, counsel for the Appellee State of Arizona, or any member of the public or other unauthorized parties without further order from this Court.

IT IS FURTHER ORDERED that the Clerk of the Supreme Court shall maintain the sealed reporter's transcript as a sealed document until further order of the Court.

IT IS FURTHER ORDERED that upon completion of the reporter's transcript of the sealed proceedings, court reporter Lydia Estrada-Gray shall reseal her notes of the October 3, 2013, proceedings and the sealed superior court proceedings shall remain sealed not to be opened without further order of the Court.

IT IS FURTHER ORDERED that upon request by counsel for either party, the Clerk of the Supreme Court shall temporarily unseal the sealed reporter's transcript and provide copies to counsel and then reseal the reporter's transcript.

IT IS FURTHER ORDERED that all protective orders whether entered by the superior court or implicit by virtue of a document being sealed remain in full force and effect subject to further order of this Court.

IT IS FURTHER ORDERED that counsel for the parties shall not include any information from sealed portions of the reporter's transcripts in the briefs, other filings in this or any matter, or otherwise disclose such information to the public or other unauthorized parties without prior, further order from this Court. (Hon. Ann A. Scott Timmer)

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64. 15-Sep-2023 On August 31, 2023, Appellant Jasper Phillip Rushing filed a Motion to Unseal Documents requesting that the Court temporarily unseal certain documents that were sealed by the superior court and provide copies to appellate counsel for the purpose of appeal. The Appellee State of Arizona filed a Response to Motion to Unseal Documents stating that it has no objection to the Appellant's motion.
- Therefore, upon review and consideration,
- IT IS ORDERED that the motion to temporarily unseal documents is granted, in part, as stated herein.
- IT IS FURTHER ORDERED that upon request by counsel for either party, the Clerk of the Supreme Court shall temporarily unseal the following sealed documents in the Index of Record ("ROA") and provide copies to counsel and then reseal the documents: 113, 114, 215, 216, 232, 241, 242, 251, 254, 256, 257, 259, 267, 268, 269, 270, 273, 274, 289, 305, 306, 307, 470, 549, 559, 563, 564, 565, 566, 567, 568, 570, 571, 572, 575, 577, 578, 593, 595, 604, 605, 641, 715, 716, 717, 724, 727, 730, 736, 737, 738, 742, 769, 770, 771, 785, 815, 817, 830, 831, and 835.
- IT IS FURTHER ORDERED that the above order temporarily unsealing ROA 549, 559, 575, 593, and 595 does not temporarily unseal any redacted or unredacted records (e.g., including but not limited to any education, medical, or mental health records) referenced therein as filed under seal until further order of the Court.
- IT IS FURTHER ORDERED that all protective orders entered by the superior court to protect victims' rights related to ROA 549, 559, 575, 593, and 595 shall remain in full force and effect subject to further order of this Court.
- IT IS FURTHER ORDERED that the above order temporarily unsealing ROA 549, 559, 575, 593, and 595 to allow the Clerk of the Supreme Court to provide copies to counsel for the parties does not relieve counsel of their duties and obligations pursuant to the Arizona Victims' Bill of Rights, Ariz. Const. art. 2 § 2.1, A.R.S. §§ 13-4401 et seq. (specifically §§ 13-4411(B), (C), and (D)), A.R.S. § 13-719, and the duties and obligations to Victims' Rights as outlined in Ariz. R. Crim P. 39 (particularly Rule 39(b) and (g)).
- IT IS FURTHER ORDERED that the above order temporarily unsealing ROA 251 does not temporarily unseal the sealed reporter's transcript for 10-03-2013 (Minute Entry filed 10-10-2013). The reporter's transcript for 10-03-2013 remains under seal as ordered by the superior court in ROA 251 until further order of the Court.
- IT IS FURTHER ORDERED that upon request by counsel for either party, the Clerk of the Supreme Court shall temporarily unseal the juror lists (See ROA 519 and 872) and the juror questionnaires (See ROA 527, 528, 529, 530, 531, 532, 533, 534, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, and 871) and provide copies to counsel and then reseal the documents.
- IT IS FURTHER ORDERED pursuant to Ariz. R. Crim. P. 18.3 and Rule 123(e)(10), Rules of the Supreme Court, counsel shall maintain the confidentiality of all juror information, including all information that personally identifies jurors and jurors' home and work telephone numbers and addresses, and may not disclose any such information to the public or any party unless good cause is shown to this Court and an order from this Court permits such disclosure.
- IT IS FURTHER ORDERED pursuant to A.R.S. § 21-312(A) and (B), Ariz. R. Crim. P. 18.3(b), and Ariz. R. Sup. Ct. 123(e)(10), as part of maintaining the confidentiality of all juror information, that the parties and any person on behalf of the parties shall not contact any prospective juror or juror (e.g., including but not limited to in writing, by phone, or in person) unless good cause is shown to this Court and an order from this Court permits such direct contact.
- IT IS FURTHER ORDERED that all protective orders entered by the superior court relating to any document, exhibit, or transcript sealed by the court shall remain in full force and effect subject to further order of this Court.
- IT IS FURTHER ORDERED that counsel for the parties shall confer with the Clerk of the Supreme Court as to the Clerk's preferred procedures for the parties to obtain copies of the sealed documents and reporter's transcripts discussed herein.
- IT IS FURTHER ORDERED counsel for the parties shall not include any information from sealed documents and reporter's transcripts in the briefs, other filings in this or any matter, or otherwise disclose such information to the public or other unauthorized parties without prior, further order from this Court. (Hon Ann A Scott Timmer)
65. 11-Oct-2023 FILED: [SEALED] Reporter's Transcript - 10/3/13 - Motion to Withdraw [Lydia Estrada-Gray]
66. 1-Nov-2023 FILED: Motion for a Procedural Order: Motion to Extend Time to File the Opening Brief Capital Case; Certificate of Service (Appellant Rushing)
67. 3-Nov-2023 A "Motion for a Procedural Order: Motion to Extend Time to File the Opening Brief Capital Case" (Appellant Rushing) having been filed on November 1, 2023,
- IT IS ORDERED granting a first extension of time to file the opening brief on or before March 8, 2024. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman Clerk)

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**STATE OF ARIZONA v JASPER PHILLIP RUSHING**

**69 PROCEEDING ENTRIES**

68. 1-Mar-2024 FILED: Motion for Procedural Order: Motion for Second Extension of Time to File Appellant's Opening Brief; Certificate of Service (Appellant Rushing)
69. 4-Mar-2024 The Court's initial briefing schedule order in this matter was issued on August 8, 2023, setting November 8, 2023, as the due date for Appellant's Opening Brief. On November 3, 2023, Appellant was granted a 120-day extension of time to file the opening brief on or before March 8, 2024.
- Appellant Rushing having filed a "Motion for Procedural Order: Motion for Second Extension of Time to File Appellant's Opening Brief on March 1, 2024,
- IT IS ORDERED granting a second extension of time to file the opening brief on or before June 28, 2024. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the Appellant's Opening Brief is not filed by June 28, 2024. (Tracie K. Lindeman Clerk)