Arizona Supreme Court

Criminal Petition for Review-Post Conviction (ASC)

CR-23-0311-PR STATE OF ARIZONA v CHRISTOPHER REY LICON

Appellate Case Information

Case Filed: 17-Jul-2023 Archive on: 17-Apr-2034 (planned)

Case Closed: 17-Apr-2024

Dept/Composition

Side 1. STATE OF ARIZONA, Respondent

(Litigant Group) STATE OF ARIZONA

- **State of Arizona**

Attorneys for: Respondent

Rachel H Mitchell, Esq. (AZ Bar No. 14560)

Quinton S Gregory, Esq. (AZ Bar No. 35125)

Side 2. CHRISTOPHER REY LICON, Petitioner

(Litigant Group) CHRISTOPHER REY LICON

- **Christopher Rey Licon** PRO SE

CASE STATUS

Apr 17, 2024....Case Closed Apr 2, 2024.....**Decision Rendered**

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA	1 CA-CR 23-0210 PRPC				
MAR	CR2011-100207-001		Michael W Kemp, Judge on PC Comments: (none)		

CASE DECISION

02-Apr-2024 ORDER

* ORDERED: Writ of Certiorari (Treated as Petition for Review) = GRANTED.

FURTHER ORDERED: The court of appeals' order dismissing Licon's petition for review is vacated. Rule 32 filing deadlines—including the petition for review filing deadline—are no

Filed: **02-Apr-2024** Mandate: **23-Apr-2024**

Decision Disposition
Granted

21 PROCEEDING ENTRIES

1.	17-Jul-2023	FILED: Writ of Certiotari (sic) (Treated as Petition for Review) (Rec'd From CoA 12/7/2023) (Petitioner Licon, Pro Se)
2.	15-Dec-2023	FILED: Record from CofA: Electronic Record
3.	19-Dec-2023	FILED: State of Arizona's Acknowledgement; Certificate of Service (Respondent State)
4.	21-Dec-2023	The Clerk of the Supreme Court having been authorized by the Supreme Court to order any party to file a response to a petition for review at the direction of a Supreme Court staff attorney, IT IS ORDERED that Respondent State shall file a response to the petition for review on or before January 22, 2024. IT IS FURTHER ORDERED no extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman Clerk)
5.	12-Jan-2024	FILED: Motion to Extend Deadline for State's Response to Petition for Review (First Request) (Procedural Motion); Certificate of Service (Respondent State)

CR-23-0311-PR STATE OF ARIZONA v CHRISTOPHER REY LICON

21 PROCEEDING ENTRIES

6.	17-Jan-2024	Respondent State filed a "Motion to Extend Deadline for State's Response to Petition for Review (First Request) (Procedural Motion)" on January 12, 2024. Pursuant to Arizona Rules of Criminal Procedure, 31.6(e) and Arizona Rules of Civil Appellate Procedure, Rule 6(b), a motion for a procedural order must include a statement by the moving party of whether the other parties consent to, or object to, the entry of the order that is sought; or why the moving party was unable to contact the other parties before filing the motion. Therefore, IT IS ORDERED the motion is denied without prejudice to Respondent State's ability to file a motion in compliance with Arizona Rules of Crim. Proc. Rule 31.6(e) and ARCAP 6(b) by January 23, 2024. (Tracie K. Lindeman Clerk)
7.	17-Jan-2024	FILED: Motion to Extend Deadline for State's Response to Petition for Review (First Request) (Procedural Motion); Certificate of Service (Respondent State)
8.	18-Jan-2024	A "Motion to Extend Deadline for State's Response to Petition for Review (First Request) (Procedural Motion)" (Respondent State of Arizona) having been filed on January 17, 2024, IT IS ORDERED granting an extension of time to file the response to petition for review on or before February 21, 2024. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman Clerk)
9.	30-Jan-2024	FILED: Motion to Appoint Counsel (Petitioner Licon, Pro Se)
10.	5-Feb-2024	On January 30, 2024, Appellant Licon filed a "Motion to Appoint Counsel." The Court notes that Licon, pro se, timely filed a petition for review in this Court on July 17, 2023. An appellant has no further filing deadlines after timely filing a petition for review, unless specifically ordered by the Court. See Ariz. R. Crim. P. 31.21(f)(4), (j)(3). An appellant also has no right to appointed counsel where, as here, he is seeking discretionary review. Ross v. Moffitt, 417 U.S. 600, 618–19 (1974); State v. Shattuck, 140 Ariz. 582, 584 (1984); see also Ariz. R. Crim. P. 31.21(a). Accordingly, IT IS ORDERED denying Appellant's January 30, 2024 motion to appoint counsel. (Hon. Ann A. Scott Timmer)
11.	9-Feb-2024	FILED: The State of Arizona's Response to Petition for Review; Certificate of Service; Certificate of Compliance; Appendix (Respondent State)
12.	20-Feb-2024	FILED: State's Certificate of Service is in Error/Motion to Order State to Provide Petitioner Copy of State's Response (Petitioner Licon, Pro Se)
13.	20-Feb-2024	On February 20, 2024, Petitioner Licon, pro se, filed "State's Certificate of Service is in Error/Motion to Order State to Provide Petitioner Copy of State's Response." The Clerk of the Supreme Court having been authorized by the Supreme Court to order any party to file a response at the direction of a Supreme Court staff attorney, IT IS ORDERED that Respondent State of Arizona shall file a response to the motion on or before February 27, 2024. (Tracie K. Lindeman Clerk)
14.	27-Feb-2024	FILED: Response to Motion to Order State to Provide Petitioner Copy of State's Response (Procedural Motion); Certificate of Service (Respondent State)
15.	27-Feb-2024	On February 20, 2024, Petitioner Licon filed a "State's Certificate of Service is In Error/Motion to Order State to Provide Petitioner Copy of State's Response" in which he claimed that he did not receive a hard copy of the State's response to his petition for review. On February 27, 2024, the State responded to the motion, advising that it mailed a second hard copy of its response to Licon on February 22, 2024. Based on State's avowal, IT IS ORDERED denying Licon's February 20, 2024 motion as moot. (Hon. Ann A. Scott Timmer)
16.	5-Mar-2024	ORDERED: Writ of Certiotari (sic) (Treated as Petition for Review) = CONTINUED. Justice Lopez and Justice Montgomery did not participate in the determination of this matter.
17.	4-Mar-2024	FILED: Motion to Correct Facts as Alleged by the State (Petitioner Licon, Pro Se)

CR-23-0311-PR STATE OF ARIZONA v CHRISTOPHER REY LICON

21 PROCEEDING ENTRIES

18.	7-Mar-2024	On March 4, 2024, Petitioner Licon filed a "Motion to Correct Facts as Alleged by the State." In the motion, Licon attaches evidence that he filed a "special action" in the court of appeals and argues that the State therefore incorrectly stated that he had not filed a special action below. The evidence Licon attaches shows that he filed a special action in court of appeals cause number 1 CA-SA 23-0115. Licon's petition for review in this Court, however, is from the court of appeals' order in cause number 1 CA-CR 23-0210 PRPC. In that case, Licon filed a "Writ of Certiorari" in the court of appeals, which it treated as a petition for review, not a special action. The State's statements in its response, therefore, are not incorrect. Accordingly, IT IS ORDERED denying Licon's March 7, 2024 motion. (Hon James P Beene)
19.	2-Apr-2024	ORDERED: Writ of Certiorari (Treated as Petition for Review) = GRANTED. FURTHER ORDERED: The court of appeals' order dismissing Licon's petition for review is vacated. Rule 32 filing deadlines—including the petition for review filing deadline—are not jurisdictional. See State v. Pope, 130 Ariz. 253, 255 (1981). The PCR court erred by refusing to extend the filing deadline under the circumstances here, and the court of appeals erred by dismissing the petition for review on that basis. FURTHER ORDERED: The PCR court's order declining petitioner's request to extend the time for filing a petition for review with the court of appeals is vacated. FURTHER ORDERED: The matter is remanded to the court of appeals. Licon may file an amended petition for review no later than 90 days from the date of this order. Justice Lopez and Justice Montgomery did not participate in the determination of this matter. ----------
20.	17-Apr-2024	----------CASE STATISTICALLY TERMINATED----------
21.	23-Apr-2024	MANDATE REMANDING TO COURT OF APPEALS Issued Mandate and copy of Minute Letter to Court of Appeals. _____