Arizona Supreme Court

Criminal Post Conviction

CR-23-0315-PC — STATE OF ARIZONA v EDWARD JAMES ROSE

Appellate Case Information

Case Filed: 18-Dec-2023

Case Closed:

Dept/Composition

Side 1. STATE OF ARIZONA, Petitioner

(Litigant Group) STATE OF ARIZONA

- **State of Arizona**

Attorneys for: Petitioner

Kristin K. Mayes, Esq. (AZ Bar No. 022584)

Laura P Chiasson, Esq. (AZ Bar No. 19025)

Side 2. EDWARD JAMES ROSE, Respondent

(Litigant Group) EDWARD JAMES ROSE

- **Edward James Rose**

Attorneys for: Respondent

John R Mills, Esq. (AZ Bar No. 33217)

Genevie Gold, Esq. (CA Bar No. geneviegold)

Side 3. FEDERAL PUBLIC DEFENDER, Amicus Curiae

(Litigant Group) FEDERAL PUBLIC DEFENDER

- **Federal Public Defender's Office**

Attorneys for: Amicus Curiae

Jon M Sands, Esq. (AZ Bar No. 10441)

Cary S Sandman, Esq. (AZ Bar No. 4779)

Side 4. MARICOPA COUNTY ATTORNEY'S OFFICE, Amicus Curiae

(Litigant Group) MARICOPA COUNTY ATTORNEY'S OFFICE

- **Maricopa County Attorney's Office**

Attorneys for: Amicus Curiae

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

Julie A Done, Esq. (AZ Bar No. 24370)

CASE STATUS

Dec 18, 2023....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR2007–149013–002			John R Hannah, Judge on PC		

19 PROCEEDING ENTRIES

1.	18-Dec-2023	FILED: The State of Arizona's Petition for Review; Certificfate of Service; Certificate of Compliance (Petitioner State)
2.	19-Dec-2023	FILED: Motion for Procedural Order: Unopposed Motion for Extension of Time to File Response to Petition for Review; Certificate of Service; Order (MCSC) 11/16/23 (Respondent Rose)
3.	20-Dec-2023	A "Motion for Procedural Order: Unopposed Motion for Extension of Time to File Response to Petition for Review" (Respondent Rose) having been filed on December 19, 2023, IT IS ORDERED granting a first extension of time to file the response to petition for review on or before February 16, 2024. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman, Clerk)
4.	20-Dec-2023	FILED: Letter to John Mills (Verification of Pro Hac Vice Status)
5.	11-Jan-2024	FILED: Notice of Pro Hac Vice Status; Certificate of Service; Exhibts A-D (Respondent Rose)
6.	1-Feb-2024	FILED: Cross-Petition for Review; Certificate of Service; Certificate of Compliance (Respondent Rose)
7.	16-Feb-2024	FILED: Opposition to Petition for Review; Certificate of Service; Certificate of Compliance (Respondent Rose)
8.	21-Feb-2024	FILED: Motion for Procedural Order (Extension to File Reply in Support of Petition for Review); Certificate of Service (Petitioner State)

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19 PROCEEDING ENTRIES

9.	21-Feb-2024	A "Motion for Procedural Order (Extension to File Reply in Support of Petition for Review)" (Petitioner State of Arizona) having been filed on February 21, 2024, IT IS ORDERED granting a first extension of time to file the reply in support of petition for review on or before March 4, 2024. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman Clerk)
10.	4-Mar-2024	FILED: The State of Arizona's Reply in Support of Petition for Review; Certificate of Service; Certificate of Compliance (Petitioner State)
11.	4-Mar-2024	FILED: The State of Arizona's Response to Cross-Petition for Review; Certificate of Service; Certificate of Compliance (Petitioner State)
12.	8-Mar-2024	FILED: Brief of Amici Curiae Arizona Federal Public Defender Supporting Denial of Petition for Review; Certificate of Service; Certificate of Compliance (Amicus Curiae FPD-AZ)
13.	8-Mar-2024	FILED: Certificate of Consent of All Parties: Brief of Amicus Curiae the Federal Public Defender for the District of Arizona (Amicus Curiae FPD-AZ)
14.	8-Mar-2024	FILED: Amicus Curiae Brief of the Maricopa County Attorney's Office; Certificate of Service; Certificate of Compliance (Amicus Curiae)
15.	8-Mar-2024	FILED: Authorization for Amicus Curiae Brief of the Maricopa County Attorney's Office (Amicus Curiae MCAO)
16.	14-Mar-2024	FILED: Reply to State's Response to Cross-Petition for Review; Certificate of Service; Certificate of Compliance (Respondent Rose)
17.	8-Apr-2024	FILED: Reply to Amici on Petition for Review; Certificate of Service; Certificate of Compliance (Respondent Rose)
18.	10-Apr-2024	FILED: Notice of Conflict and Potential Conflicts of Interest; Certificate of Service; Exhibits in Support of Notice (Respondent Rose)

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19.	30-Apr-2024	On April 10, 2024, Respondent/Cross-Petitioner Rose (Respondent) filed a Notice of Conflicts and Potential Conflicts of Interest, stating that he "respectfully notices this Court of conflicts of interest involving Justice[] James P. Beene and Justice John R. Lopez IV." Respondent also "notices this Court of a potential conflict of interest involving Justice William G. Montgomery related to his prior service at the Maricopa County Attorney's Office." When Respondent was last before this Court in CR-20-0299-PC, Justice Lopez and Justice Beene recused and "did not participate in the determination of [the] matter." See CR-20-0299-PC, Order dated 3/3/2021, Minute Letter dated 11/2/2021. Justice Lopez having previously notified the Clerk's Office of his recusal in this matter, IT IS ORDERED that the Notice of Conflicts and Potential Conflicts of Interest seeking the recusal of Justice Lopez is denied as moot. Justice Beene having previously notified the Clerk's Office of his recusal in this matter, IT IS ORDERED that the Notice of Conflicts and Potential Conflicts of Interest seeking the recusal of Justice Beene is denied as moot. With respect to CR-20-0299-PC, in March 2021, Justice Montgomery determined that, although employed by the Maricopa County Attorney's Office, he was not involved in Respondent Rose's trial that concluded prior to Justice Montgomery becoming the Maricopa County Attorney. Equally, during the time Respondent Rose references that Justice Montgomery was the "presumptive Maricopa County Attorney," Justice Montgomery was not involved with Respondent Rose's case, and therefore he determined that a conflict does not exist. See CR-20-299-PC, Order dated 3/3/2021. Notwithstanding Justice Montgomery's previous determination that a conflict does not exist, Respondent Rose proffers, "[s]hould Justice Montgomery now conclude that his impartiality could be questioned, [Respondent] Rose requests that he, too, recuse." See Notice of Conflicts and Potential Conflicts of Interest at 2 (citing Ariz. Sup. Ct. R. 81, Code of Judicial Conduct ("CJCR") Rule 2.11(A), CJCR 2.11(A)(1), CJCR 2.11(A)(6)(b)). Then, Respondent Rose again "respectfully requests that Justice Montgomery recuse if his work history at the Maricopa County Attorney's Office or anything else in his history would create an appearance of bias." Upon consideration, Justice Montgomery reiterates that he was not involved with Respondent Rose's case while employed by the Maricopa County Attorney's Office or while the elected Maricopa County Attorney nor does he have personal knowledge of any facts. Justice Montgomery therefore stands by his previous determination that a conflict does not exist nor is there a basis for disqualification. Therefore, IT IS ORDERED that the Notice of Conflicts and Potential Conflicts of Interest seeking the recusal of Justice Montgomery is denied. (Hon. Kathryn H. King)