

Arizona Supreme Court
Criminal Petition for Review-Post Conviction (ASC)

CR-24-0084-PR

STATE OF ARIZONA v JOSE LEWIS BOSQUEZ

Appellate Case Information

Case Filed: **25-Mar-2024** Archive on: 26-Mar-2034 (planned)

Case Closed: **26-Mar-2024**

Reinstated x 1: **10-Apr-2024**

Re-Closed:

Dept/Composition

Side 1. STATE OF ARIZONA, Respondent

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Respondent

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

Kirsten Valenzuela, Esq. (AZ Bar No. 21369)

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

Side 2. JOSE LEWIS BOSQUEZ, Petitioner

(Litigant Group) JOSE LEWIS BOSQUEZ

- Jose Lewis Bosquez

Attorneys for: Petitioner

Kerrie M Droban Zhivago, Esq. (AZ Bar No. 16464)

CASE STATUS

Apr 10, 2024....Reinstated Case

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA	1 CA-CR 22-0360 PRPC				
↳ MAR	CR2010-013094-001		Roy C Whitehead, Judge on PC Comments: (none)		

CASE DECISION

26-Mar-2024 ORDER

* The court of appeals issued its decision in this matter on February 6, 2024 and issued the mandate on March 19, 2024. Petitioner Bosquez filed a Petition for Review on March 25, 2024. Under the Arizona Rules of Civil Appellate Procedure 23(b)(2)(A), a

Filed: **26-Mar-2024**

Mandate:

Decision Disposition

Dismissed

James Beene

9 PROCEEDING ENTRIES

1. 25-Mar-2024 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Court of Appeals Mandate (Petitioner Bosquez)
2. 26-Mar-2024 The court of appeals issued its decision in this matter on February 6, 2024 and issued the mandate on March 19, 2024. Petitioner Bosquez filed a Petition for Review on March 25, 2024. Under the Arizona Rules of Civil Appellate Procedure 23(b)(2)(A), a petitioner must file a petition for review within 30 days of the court of appeals' memorandum decision or seek an extension before the expiration of the 30-day period. Accordingly,

IT IS ORDERED dismissing the Petition for Review as untimely. (Hon James P Beene)
3. 26-Mar-2024 FILED: [Duplicate] Petition for Review; Certificate of Service; Certificate of Compliance; Court of Appeals Mandate (Petitioner Bosquez)
4. 26-Mar-2024 FILED: Request for Extension of Time in Which to File Petition for Review Re: Dismissal Petition for Post-Conviction Relief and Motion to Accept the Petition for Review as Timely Filed; Certificate of Service (Petitioner Bosquez)

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9 PROCEEDING ENTRIES

5. 1-Apr-2024 On March 26, 2024, Petitioner Bosquez, through counsel, filed a "Request for Extension of Time in Which to File Petition for Review." The motion, however, does not procedurally comply with Ariz. R. Crim. P. 31.6(e) and ARCAP 6(b). Counsel also failed to provide any reasons why the petition was not timely filed or why the petition should be accepted as timely filed. No good cause appearing.
- IT IS ORDERED denying the motion without prejudice to filing a motion that procedurally complies with ARCAP 6(b) and that provides substantive reasons establishing good cause to accept the untimely filed petition for review as timely. Counsel is admonished to familiarize herself and comply with applicable rules of civil appellate procedure. (Hon. Clint Bolick)
6. 2-Apr-2024 FILED: Motion for Procedural Order: Motion for Extension of Time for Filing Petition for Review; Certificate of Service (Petitioner Bosquez)
7. 8-Apr-2024 FILED: State's Opposition to Motion for Procedural Order: Bosquez's Untimely Motion for Extension of Time to File Petition for Review; Certificate of Service (Respondent State)
8. 10-Apr-2024 On April 2, 2024, Bosquez, through counsel, filed a "Motion for Procedural Order: Motion for Extension of Time for Filing Petition for Review." On April 8, 2024, the State filed a response opposing the extension on various grounds. The Court further observes that the mandate in this matter issued on March 19, 2024; Bosquez filed an untimely petition for review on March 25, 2024, which the Court dismissed on March 26, 2024; and the Court denied Bosquez's prior motion to extend on April 1, 2024 "without prejudice to filing a motion that procedurally complies with ARCAP 6(b) and that provides substantive reasons establishing good cause to accept the untimely filed petition for review as timely."
- Although counsel's subsequent motion to extend is procedurally-compliant, the reason stated for the untimely filing of the petition for review and motion to extend — counsel's mere neglect — is not well-taken. Nevertheless, the Court is reluctant to deprive Petitioner of an opportunity to file a petition for review through no fault of his own, and the State's arguments in opposition to the extension are unavailing. Accordingly,
- IT IS ORDERED that the court of appeals recall the mandate that issued in this matter on March 19, 2024.
- IT IS FURTHER ORDERED granting an extension of time to file the petition for review in this matter to the date of this order.
- IT IS FURTHER ORDERED accepting the petition for review filed March 25, 2024, and dismissed March 26, 2024, as timely filed. The petition will be considered in due course. (Hon. Clint Bolick)
- CASE REINSTATED-----
9. 12-Apr-2024 FILED: Record from CofA: Electronic Record