

**Court of Appeals, Division One**  
**Criminal Petition Review Post Conviction Relief**

**1 CA-CR 21-0492 PRPC**

**STATE v. WAGNER**

**Appellate Case Information**

Case Filed: 10-Nov-2021  
Case Closed:

**Dept/Composition**

**Department C**

Hon. Maria Elena Cruz  
Hon. Samuel A Thumma  
Hon. Michael J Brown

**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)  
Kristin L Larish, Esq. (AZ Bar No. 15862)

**Side 2. CHARLES VINCENT WAGNER, JR., Petitioner**

(Litigant Group) CHARLES VINCENT WAGNER, JR.

- Charles Vincent Wagner, Jr.

**Attorneys for: Petitioner**

Michael J Dew, Esq. (AZ Bar No. 4543)

**Side 3. ARIZONA JUSTICE PROJECT, Amicus Curiae**

(Litigant Group) ARIZONA JUSTICE PROJECT

- Arizona Justice Project

**Attorneys for: Amicus Curiae**

Karen Smith, Esq. (AZ Bar No. 33494)  
Randal Boyd McDonald, Esq. (AZ Bar No. 32008)

**CASE STATUS**

Jan 17, 2024....Pending in ASC

Jan 9, 2024.....Under Advisement

**PREDECESSOR CASE(S)**

Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR 1994-092394		Rosa Mroz, Judge on PC		

**DESCENDENT CASE(S)**

ASC CR-22-0156-PR  
ASC CR-24-0013-PR

**2 CASE DECISIONS**

**10-May-2022 OPINION**

\*\*\*Vacated\*\*\*

Vacated by ASC 09/19/2023

Filed: 10-May-2022

Mandate:

Decision Disposition

**Review Granted**  
**Relief Granted**

Maria Cruz.....Author  
Samuel Thumma.....Concur  
Michael Brown.....Concur

**20-Dec-2023 ORDER**

ORDERED: Granting review of the petition and denying relief.

Filed: 20-Dec-2023

Mandate:

Decision Disposition

**Review Granted**  
**Relief Denied**

Maria Cruz.....Author

**29 PROCEEDING ENTRIES**

- 10-Nov-2021 FILED: Petition for Review from the Denial of Rule 32 Relief; Certificate of Service; Appointment of Counsel (Petitioner)
- 12-Nov-2021 ORDERED: Clerk of Maricopa County Superior Court to transmit record on appeal, including but not limited to reporter's transcripts and exhibits, to clerk, Court of Appeals, on/before 12/27/2021. Amy M Wood - Author

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3. 10-Dec-2021 FILED: State's Response to Petition for Review from Dismissal of Charles Wagner's Successive Petition for Postconviction Relief; Certificate of Service for Response to Petition for Review from Dismissal of Charles Wagner's Successive Petition for Postconviction Relief; Certificate of Compliance for Response to Petition for Review from Dismissal of Charles Wagner's Successive Petition for Postconviction Relief (Respondent)
4. 17-Dec-2021 FILED: Reply to Response to Petition for Review from the Denial of Rule 32 Relief; Certificate of Service (Petitioner)
5. 22-Dec-2021 FILED: Additional Record on Appeal  
Physical Exhibits:  
Hearing Date: 04/01/1996 List # 3 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 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 85 86 in manila envelope  
Hearing Date: 01/13/1997 List # 1 in manila envelope
6. 22-Dec-2021 FILED: e-Record on Appeal:  
Instruments/Minute Entries: Combined  
Disposition Report: 178  
Exhibits: None sent with e-Record  
(Includes transcripts dated 09/26/1995, 10/04/1995, 10/05/1995, 01/10/1996, 03/20/1996, 03/26/1996, 03/28/1996, 04/01/1996, 04/02/1996, 04/03/1996, 04/04/1996, 04/08/1996, 04/09/1996, 01/24/1997)
7. 10-Jan-2022 FILED: Motion for Leave to File Amicus Curiae Brief of the Arizona Justice Project in Support of Petition for Review; Certificate of Service (Amicus Curiae)
8. 10-Jan-2022 FILED: Brief of Amicus Curiae Arizona Justice Project in Support of Defendant/Petitioner Charles Vincent Wagner's Petition for Review; Certificate of Compliance; Certificate of Service (Amicus Curiae)
9. 18-Jan-2022 ORDERED: Brief of Amicus Curiae Arizona Justice Project in Support of Defendant/Petitioner Charles Vincent Wagner's Petition for Review = GRANTED. Accepting the Arizona Justice Project's amicus curiae brief filed on 01/10/2022. FURTHER ORDERED: That any party may file a response to the brief by 02/14/2022. Hon Kent E Cattani - Author
10. 10-Feb-2022 FILED: Notice of Appearance; Certificate of Service for Notice of Appearance (Respondent)
11. 10-Feb-2022 FILED: State's Notice of supplemental Authority in support of Response to petition for Review From dismissal of Charles Wagner's Successive petition for postconviction Relief; Certificate of Service for State's Notice of supplemental Authority in support of Response to petition for Review From dismissal of Charles Wagner's Successive petition for postconviction Relief (Respondent)
12. 14-Feb-2022 FILED: State's Response to Brief of Amicus Curiae Arizona Justice Project in Support of Charles Wagner's Petition for Review From Dismissal of Successive Petition for Postconviction Relief; Certificate of Service for State's Response to Brief of Amicus Curiae Arizona Justice Project in Support of Charles Wagner's Petition for Review From Dismissal of Successive Petition for Postconviction Relief; Certificate of Compliance for State's Response to Brief of Amicus Curiae Arizona Justice Project in Support of Charles Wagner's Petition for Review From Dismissal of Successive Petition for Postconviction Relief (Respondent)
13. 4-May-2022 FILED: State's Notice of Supplemental Citation of Legal Authority in Support of State's Response to Petition for Review From Dismissal of Wagner's Successive Petition for Postconviction Relief and State's Response to Ajp's Amicus Brief; Certificate of Service for state's Notice of supplemental Citation of Legal Authority in Support of State's Response to petition for Review From dismissal of Wagner's successive Petition for postconviction Relief and state's Response to Ajp's amicus Brie (Respondent)
14. 5-May-2022 FILED: Petitioner's Supplemental Citation of Legal Authority; Certificate of Service (Petitioner)
15. 10-May-2022 OPINION (Review Granted, Relief Granted) Hon Maria Elena Cruz - Author; Hon Samuel A Thumma - Concur; Hon Michael J Brown - Concur
16. 10-May-2022 FILED: Opinion Decision Distribution List
17. 25-May-2022 FILED: State's Motion for Reconsideration of this Court's May 10, 2022 Opinion Granting Review and Relief of Wagner's Successive Petition for Postconviction Relief; Certificate of Compliance for State's Motion for Reconsideration of this Court's May 10, 2022 Opinion Granting Review and Relief of Wagner's Successive Petition for Postconviction Relief; Certificate of Service for State's Motion for Reconsideration of this Court's May 10, 2022 Opinion Granting Review and Relief of Wagner's Successive Petition for Postconviction Relief (Respondent)
18. 7-Jun-2022 ORDERED: State's Motion for Reconsideration of this Court's May 10, 2022 Opinion Granting Review and Relief of Wagner's Successive Petition for Postconviction Relief (Respondent) = DENIED. Hon Maria Elena Cruz - Author
19. 23-Jun-2022 FILED: Email Notice from ASC re: Petition for Review filed 6/22/22; request for partial record
20. 23-Jun-2022 FILED: Letter forwarding partial record to Arizona Supreme Court

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21.	27-Jun-2022	FILED: ASC Order filed 06/27/2022 re: the motion is denied without prejudice to respondent's ability to file a motion in compliance with Arizona Rules of Crim. Proc. Rule 31.6(e). This matter is subject to dismissal if a compliant motion or petition for review is not filed by 07/05/2022.
22.	27-Jun-2022	FILED: ASC Order filed 06/27/2022 re: granting respondents' motion to exceed the word count limit on the petition for review for review by 1,318 words for a total of 4,818 words. The petition for review shall be filed as of 06/22/2022.
23.	30-Sep-2022	FILED: ASC Order filed 09/30/2022 re: denying the motion to consolidate this case with CR-22-0185-PR and CR-22-0227-PR. FURTHER ORDERED: Granting the motion for expedited review of the State's Petition for Review.
24.	7-Dec-2022	FILED: Letter from ASC, 12/07/2022, re: Petition for Review CONTINUED on 12/06/2022.
25.	19-Sep-2023	FILED: Order from ASC, 09/19/2023, re: ORDERED: Granting the State's Petition for Review. FURTHER ORDERED: Vacating the court of appeals' opinion issued in this matter on 05/10/2022. FURTHER ORDERED: Remanding this matter to the court of appeals for further proceedings on Wagner's petition for review consistent with this Court's opinion in State v. Hon. Cooper/Bassett (CR-22-0227-PR) filed on 09/18/2023.
26.	5-Oct-2023	FILED: Arizona Supreme Court Mandate - COA1 Decision Vacated - Remanded to COA1
27.	20-Dec-2023	ORDERED: Granting review of the petition and denying relief. Hon Maria Elena Cruz - Author
28.	17-Jan-2024	FILED: Email Notice from ASC re: Petition for Review filed 01/15/2024; request for partial record
29.	17-Jan-2024	FILED: Letter forwarding partial record to Arizona Supreme Court