

**Court of Appeals, Division One**

**Criminal**

**1 CA-CR 22-0565**

**STATE v. SULU-KERR**

**Appellate Case Information**

Case Filed: 29-Nov-2022

Case Closed:

**Dept/Composition**

**Department C**

Hon. D Steven Williams  
Hon. Samuel A Thumma  
Hon. Paul J McMurdie

**Side 1. STATE OF ARIZONA, Appellee**

(Litigant Group) STATE OF ARIZONA

- State of Arizona

**Attorneys for: Appellee**

Andrew Reilly, Esq. (AZ Bar No. 29138)

**Side 2. TIA LYN NICOLE SULU-KERR, Appellant**

(Litigant Group) TIA LYN NICOLE SULU-KERR

- Tia Lyn Nicole Sulu-Kerr

**Attorneys for: Appellant**

Robert J Trebilcock, Esq. (AZ Bar No. 12004)

**CASE STATUS**

Apr 3, 2024.....Pending in ASC

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
YUM S1400CR202100038	See File	See File	Brandon S Kinsey, Sentencing	JURY	

**DESCENDENT CASE(S)**

ASC CR-24-0049-PR

**CASE DECISION**

25-Jan-2024 **OPINION**

D Williams.....Author  
Samuel Thumma.....Concur  
Paul McMurdie.....Concur

Filed: 25-Jan-2024

Mandate:

Decision Disposition

**Affirmed in Part**  
**Vacated in Part**  
**Remanded**

**52 PROCEEDING ENTRIES**

- 29-Nov-2022 FILED: Notice of Appeal from Yuma County Superior Court filed 11/14/22. Notification sent to Court Reporters dated 11/14/2022.
- 29-Nov-2022 FILED: e-Record on Appeal:  
Instruments/Minute Entries: Combined  
Disposition Report: None  
Exhibits: None sent with e-Record  
(Includes transcript dated 09/28/2021)
- 2-Dec-2022 FILED: Additional Record on Appeal  
Physical Exhibits:  
Hearing Date: 07/11/2022 List # 1 2 in manila envelope
- 5-Dec-2022 FILED: Appellate Clerk Notice (31.2(g))
- 9-Dec-2022 FILED: Motion for Extension of Time (Time to File Transcripts)(Elizabeth M Hengstebeck)
- 9-Dec-2022 FILED: Reporter's Transcript - 11/08/2022 - Sentencing (Katherine Pitotti)
- 9-Dec-2022 FILED: Notice of Service (Katherine Pitotti)
- 10-Dec-2022 FILED: Reporter's Transcript - 06/08/2022 - Jury Trial Day One (Elizabeth Hengstebeck)
- 10-Dec-2022 FILED: Notice of Service of Transcript (Elizabeth Hengstebeck)

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10.	12-Dec-2022	FILED: Reporter's Transcript - 11/01/2022 - Aggravation/Mitigation Hearing (Katherine Pitotti)
11.	12-Dec-2022	FILED: Notice of Service (Katherine Pitotti)
12.	13-Dec-2022	ORDERED: Motion for Extension of Time (Time to File Transcripts)(Elizabeth M Hengstebeck) = GRANTED. Due Dates EXTENDED to 01/30/2023 for Transcripts dated 06/08/2022, 06/09/2022, 06/10/2022, 06/15/2022 or OSC set for 02/01/2023. Hon David B Gass - Author
13.	17-Dec-2022	FILED: Reporter's Transcript - 06/09/2022 - Jury Trial Day 2 (Elizabeth Hengstebeck)
14.	17-Dec-2022	FILED: Notice of Service of Transcript (Elizabeth Hengstebeck)
15.	19-Dec-2022	FILED: Reporter's Transcript - 05/13/2022 - Final Pretrial Conference/Status Hearing (Julie K. Knowlton)
16.	19-Dec-2022	FILED: Reporter's Transcript - 05/26/2022 - Oral Arguments on All Pending Motions (Julie K. Knowlton)
17.	19-Dec-2022	FILED: Affidavit: Notice of Service of Transcript (Julie K. Knowlton)
18.	28-Dec-2022	FILED: Reporter's Transcript - 06/10/2022 - Jury Trial Day Three (Elizabeth Hengstebeck)
19.	28-Dec-2022	FILED: Notice of Service of Transcript (Elizabeth Hengstebeck)
20.	29-Dec-2022	FILED: Reporter's Transcript - 06/16/2022 - Jury Trial Day Five (Dana Peabody)
21.	29-Dec-2022	FILED: Reporter's Transcript - 07/11/2022 - Aggravation/Mitigation Hearing (Dana Peabody)
22.	29-Dec-2022	FILED: Notice of Service of Transcript (Dana Peabody)
23.	31-Dec-2022	FILED: Reporter's Transcript - 06/15/2022 - Jury Trial Day 4 (Elizabeth Hengstebeck)
24.	31-Dec-2022	FILED: Notice of Service of Transcript (Elizabeth Hengstebeck)
25.	5-Jan-2023	FILED: Notice of Completion of Record
26.	22-Feb-2023	FILED: Notice of Appearance; Certificate of Service (Appellant)
27.	22-Feb-2023	FILED: Motion to Extend Time for Opening Brief; Certificate of Service (Appellant)
28.	23-Feb-2023	ORDERED: Motion to Extend Time for Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Tuesday, 02-21-2023 to Monday, 04-03-2023. Benjamin A Armstrong ProTem Judge - Author
29.	31-Mar-2023	FILED: Motion To Extend Time For Opening Brief; Certificate of Service (Appellant)
30.	4-Apr-2023	ORDERED: Motion To Extend Time For Opening Brief (Appellant)= GRANTED. Due date EXTENDED from Monday, 04-03-2023 to Wednesday, 05-03-2023. Benjamin A Armstrong ProTem Judge - Author
31.	3-May-2023	FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service (Appellant)
32.	11-May-2023	FILED: Notice of Appearance; Certificate of Service (Appellee)
33.	5-Jun-2023	FILED: Unopposed Motion for Procedural Order (Extension for Answering Brief); Certificate of Service (Appellee)
34.	6-Jun-2023	ORDERED: Unopposed Motion for Procedural Order (Extension for Answering Brief) (Appellee) = GRANTED. Due date EXTENDED from Monday, 06-12-2023 to Wednesday, 07-12-2023 Benjamin A Armstrong ProTem Judge - Author
35.	12-Jul-2023	FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)
36.	31-Jul-2023	FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
37.	11-Aug-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record
38.	25-Aug-2023	CLNDR: CONFERENCE, Department C, 10-11-23, COURTROOM 1.
39.	11-Oct-2023	ORDERED: Directing both parties to file simultaneous supplemental briefs addressing the following question: Was it fundamental error for the superior court not to instruct jurors on the law set forth in A.R.S. § 13-1418? FURTHER ORDERED: The briefs shall be no longer than 5,000 words and shall be filed no later than 5:00 p.m. on 10/26/2023. Hon D Steven Williams - Author
40.	24-Oct-2023	FILED: Motion for Clarification of Order for Supplemental Briefing; Certificate of Service (Appellant)

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41.	24-Oct-2023	ORDERED: Clarifying and amending the Order for Supplemental Briefing to direct both parties to file simultaneous supplemental briefs addressing the following question: Was it fundamental error for the superior court not to instruct jurors on the law set forth in A.R.S. § 13-418? The Order for Supplemental Briefing is otherwise unchanged. Hon D Steven Williams - Author
42.	26-Oct-2023	FILED: Appellant's Supplemental Brief; Certificate of Compliance; Certificate of Service (Appellant)
43.	26-Oct-2023	FILED: Appellee's Simultaneous Supplemental Brief; Certificate of Compliance; Certificate of Service (Appellee)
44.	8-Dec-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record
45.	25-Jan-2024	OPINION (Affirmed in Part, Vacated in Part, Remanded) Hon D Steven Williams - Author; Hon Samuel A Thumma - Concur; Hon Paul J McMurdie - Concur
46.	25-Jan-2024	FILED: Decision Distribution Notification
47.	14-Feb-2024	FILED: Motion to Reconsider; Certificate of Compliance; Certificate of Service (Appellant)
48.	22-Feb-2024	ORDERED: Motion to Reconsider (Appellant) = DENIED. Hon D Steven Williams - Author
49.	22-Feb-2024	FILED: ASC Order filed 02/22/2024 re: extending time for filing Petition for Review to 03/27/2024; matter subject to dismissal if the petition for review is not filed by 03/27/2024.
50.	22-Mar-2024	FILED: ASC Order filed 03/22/2024 re: extending time for filing Petition for Review to 04/03/2024; matter subject to dismissal if the petition for review is not filed by 04/03/2024.
51.	3-Apr-2024	FILED: Email Notice from ASC re: Petition for Review filed 4/3/24; request for partial record
52.	4-Apr-2024	FILED: Letter forwarding partial record to Arizona Supreme Court