

**Arizona Supreme Court**  
**Criminal Petition for Review - Appeal**

**CR-23-0029-PR**

**STATE OF ARIZONA v KEVIN DUNBAR**

**Appellate Case Information**

Case Filed: 2-Feb-2023  
 Case Closed:

**Dept/Composition**

**En Banc**

Hon. Robert Brutinel  
 Hon. Ann A. Scott Timmer  
 Hon. Clint Bolick  
 Hon. John R Lopez  
 Hon. James P Beene  
 Hon. William G Montgomery  
 Hon. Kathryn H. King

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

(Litigant Group) STATE OF ARIZONA

- State of Arizona

**Attorneys for: Appellee**

Kristin K Mayes, Esq. (AZ Bar No. 22584)  
 Alexander W Samuels, Esq. (AZ Bar No. 28926)  
 Alice Jones, Esq. (AZ Bar No. 28062)

**Side 2. KEVIN DUNBAR, Appellant**

(Litigant Group) KEVIN DUNBAR

- Kevin Dunbar

**Attorneys for: Appellant**

Robb P Holmes, Esq. (AZ Bar No. 7590)

**Side 3. ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE, Amicus Curiae**

(Litigant Group) ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE

- Arizona Attorneys for Criminal Justice

**Attorneys for: Amicus Curiae**

Laila Ikram, Esq. (AZ Bar No. 33758)  
 Mikel Steinfeld, Esq. (AZ Bar No. 24996)

**CASE STATUS**

Jun 18, 2024....Decision Rendered	Aug 22, 2023....Oral Argument Granted
Jun 30, 2023....Continued	Feb 2, 2023.....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
2 CA 2 CA-CR 21-0069					
↳ PIM CR20152260-001			Catherine M Woods, Trial Comments: (none)	JURY	

**CASE DECISION**

**18-Jun-2024 OPINION**

\* We vacate paragraphs 12 through 20 of the court of appeals' memorandum decision and remand this case to the trial court for reconsideration of Dunbar's motion to proceed pro se. On remand, the trial court shall consider the De Nistor factors, including

Filed: <b>18-Jun-2024</b>	Mandate: _____
Decision Disposition	
<b>Remanded Vacated in Part</b>	

James Beene.....Author  
 Robert Brutinel.....Concur  
 Ann Timmer.....Concur  
 Clint Bolick.....Concur  
 John Lopez.....Concur  
 Kathryn King.....Concur  
 William Montgomery.....Dissent in Part

**26 PROCEEDING ENTRIES**

1.	2-Feb-2023	FILED: Unopposed Motion for Procedural Order (Extension for Appellee's Petition for Review); Certificate of Service (Appellee State)
----	------------	--------------------------------------------------------------------------------------------------------------------------------------

**Arizona Supreme Court**  
**Criminal Petition for Review - Appeal**

**CR-23-0029-PR**

**STATE OF ARIZONA v KEVIN DUNBAR**

**26 PROCEEDING ENTRIES**

2. 3-Feb-2023 An "Unopposed Motion for Procedural Order (Extension for Appellee's Petition for Review)" (Appellee State) having been filed on February 2, 2023,  
  
IT IS ORDERED granting a first extension of time to file the petition for review on or before February 13, 2023. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the petition for review is not filed by February 13, 2023. (Tracie K. Lindeman, Clerk)
3. 13-Feb-2023 FILED: State of Arizona's Petition for Review; Certificate of Service; Certificate of Compliance; Memorandum Decision (Appellee State)
4. 13-Feb-2023 FILED: Record from CofA: Link to Electronic Record
5. 10-Mar-2023 FILED: Response to State's Petition for Review; Certificate of Service; Certificate of Compliance (Appellant Dunbar)
6. 10-Mar-2023 FILED: Memorandum Decision (Appellant Dunbar)
7. 7-Apr-2023 FILED: Notice of Substitution of Counsel [Alice Jones Attorney of Record]; Certificate of Service (Appellee State)
8. 30-Jun-2023 ORDERED: State of Arizona's Petition for Review = CONTINUED.
9. 22-Aug-2023 ORDERED: State of Arizona's Petition for Review = GRANTED.  
  
FURTHER ORDERED: The case shall be set for oral argument.  
  
FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than 20 days from the date of this Court's Minute Letter. Any amicus briefs are due on or before September 26, 2023 and any responses to amicus briefs are due on or before October 16, 2023. Any amicus briefs or responses may not exceed 20 pages in length.
10. 30-Aug-2023 NOTICE OF ORAL ARGUMENT: Set for Tuesday, December 12, 2023 at 9:30 A.M. [twenty (20) minutes per side]
11. 6-Sep-2023 FILED: Notice of Acknowledgment of Oral Argument [Alice Jones to Argue] (Appellee State)
12. 12-Sep-2023 FILED: State of Arizona's Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellee State)
13. 12-Sep-2023 FILED: Respondent's Supplemental Brief; Certificate of Service; Certificate of Compliance; ASC Minute Letter (Appellant Dunbar)
14. 26-Sep-2023 FILED: Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Petitioner; Certificate of Service; Certificate of Compliance (Amicus AACJ)
15. 26-Sep-2023 FILED: Motion for Leave to File Amicus Curiae Brief (Amicus AACJ)
16. 27-Sep-2023 A "Motion for Leave to File Amicus Curiae Brief" (Amicus Curiae AACJ) and the brief of amicus curiae were filed on September 26, 2023. After consideration,  
  
IT IS ORDERED the "Motion for Leave to File Amicus Curiae Brief" is granted. The brief shall be filed as of September 26, 2023. (Hon. Robert Brutinel)
17. 6-Oct-2023 FILED: Motion for Leave to Participate in Oral Argument; Certificate of Service (Amicus AACJ)
18. 10-Oct-2023 On October 6, 2023, Amicus Curiae, Arizona Attorneys for Criminal Justice, through counsel, filed a "Motion for Leave to Participate in Oral Argument." After consideration by the Court,  
  
IT IS ORDERED granting the Motion for Amicus Curiae Arizona Attorneys for Criminal Justice to participate in oral argument. (Hon. Robert Brutinel)
19. 16-Oct-2023 FILED: State of Arizona's Response to Brief of Amicus Curiae Arizona Attorneys for Criminal Justice; Certificate of Service; Certificate of Compliance (Appellee State)
20. 30-Nov-2023 FILED: Notice of Acknowledgment of Oral Argument (Laila Ikram will argue) (Amicus AACJ)
21. 30-Nov-2023 FILED: Notice of Acknowledgment of Oral Argument (Robb Holmes will argue) (Appellant Dunbar)

**Arizona Supreme Court**  
**Criminal Petition for Review - Appeal**

**CR-23-0029-PR**

**STATE OF ARIZONA v KEVIN DUNBAR**

**26 PROCEEDING ENTRIES**

22. 6-Dec-2023 On the Court's own motion,  
  
IT IS ORDERED the Oral Argument currently set for Tuesday, December 12, 2023 at 9:30 a.m., has been rescheduled to 11:00 a.m. (Hon. Robert Brutinel)
23. 12-Dec-2023 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Alice Jones, Robb Holmes, Laila Ikram)
24. 18-Jun-2024 OPINION - We vacate paragraphs 12 through 20 of the court of appeals' memorandum decision and remand this case to the trial court for reconsideration of Dunbar's motion to proceed pro se. On remand, the trial court shall consider the De Nistor factors, including whether denying Dunbar's request would substantially undermine his right to present his case at sentencing. If the trial court determines Dunbar's motion should have been granted, structural error has occurred, and Dunbar is entitled to resentencing. If the trial court again determines that Dunbar's motion should not have been granted, Dunbar's sentences stand. (Hon James P. Beene - Author; Hon. Robert Brutinel - Concur; Hon. Ann A. Scott Timmer - Concur; Hon. Clint Bolick - Concur; Hon. John R. Lopez IV - Concur; Hon. Kathryn H. King - Concur; Hon William G. Montgomery - Dissent in Part)
25. 26-Jun-2024 FILED: Motion to Stay Issuance of the Mandate; Certificate of Service (Appellee State)
26. 3-Jul-2024 On June 26, 2026, Appellee State of Arizona filed a "Motion to Stay Issuance of the Mandate." Appellee requests a 90-day stay in order to evaluate and potentially file a petition for writ of certiorari to the United States Supreme Court. After consideration, and pursuant to Arizona Rule of Criminal Procedure 31.22(e),  
  
IT IS ORDERED the motion is granted.  
  
IT IS FURTHER ORDERED the State of Arizona shall, within 90 days of the date of this order, notify this Court whether the State of Arizona has elected not to file a petition, or whether a petition for writ of certiorari has been filed. (Hon. Ann A. Scott Timmer)