

Arizona Supreme Court
Criminal Petition for Review - Appeal

CR-23-0236-PR

STATE OF ARIZONA v IAN MITCHAM

Appellate Case Information

Case Filed: 14-Sep-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. Kathryn H. King
 Hon. Jeffrey L Sklar

Side 1. STATE OF ARIZONA, Appellant

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Appellant

Ryan Green, Esq. (AZ Bar No. 21102)
 Nicholas Klingerman, Esq. (AZ Bar No. 28231)
 Rachel H Mitchell, Esq. (AZ Bar No. 14560)

Side 2. IAN MITCHAM, Appellee

(Litigant Group) IAN MITCHAM

- Ian Mitcham

Attorneys for: Appellee

Jeffrey A Kirchler, Esq. (AZ Bar No. 21531)
 Mikel Steinfeld, Esq. (AZ Bar No. 24996)
 Richard D Randall, Esq. (AZ Bar No. 14011)
 Martha Barco Penunuri, Esq. (AZ Bar No. 31559)

Side 3. ARIZONA ATTORNEY GENERAL'S OFFICE, Amicus Curiae

(Litigant Group) ARIZONA ATTORNEY GENERAL'S OFFICE

- Arizona Attorney General's Office

Attorneys for: Amicus Curiae

Kristin K Mayes, Esq. (AZ Bar No. 22584)
 Alice Jones, Esq. (AZ Bar No. 28062)
 Michael O'Toole, Esq. (AZ Bar No. 19555)

Side 4. ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE, Amicus Curiae

(Litigant Group) ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE

- Arizona Attorneys for Criminal Justice

Attorneys for: Amicus Curiae

David J Euchner, Esq. (AZ Bar No. 21768)
 Grant D Wille, Esq. (AZ Bar No. 31989)

Side 5. AMERICAN CIVIL LIBERTIES UNION AND AMERICAN CIVIL LIBERTIES UNION OF ARIZON, Amicus Curiae

(Litigant Group) AMERICAN CIVIL LIBERTIES UNION AND AMERICAN CIVIL LIBERTIES UNION OF ARIZON

- American Civil Liberties Union Foundation
- American Civil Liberties Union Foundation of Arizona

Attorneys for: Amicus Curiae

Jared G Keenan, Esq. (AZ Bar No. 27068)
 Lauren Beall, Esq. (AZ Bar No. 35147)
 Vera Eidelman, Esq. (NY Bar No. veraeidelman)

CASE STATUS

May 7, 2024.....At Issue

May 7, 2024.....Oral Argument Granted

Sep 14, 2023.....Pending

PREDECESSOR CASE(S)

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA 1 CA-CR 23-0014					
↳ MAR CR2018-118086-001	Order re: Supression of DNA Evidence		Roy C Whitehead, Authoring Judge of Order Comments: (none)		

27 PROCEEDING ENTRIES

- 14-Sep-2023 FILED: Request for Procedural Order: Motion to Extend Time to File the Petition for Review; Certificate of Service (Appellee Mitcham)

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2. 15-Sep-2023 A "Request for Procedural Order: Motion to Extend Time to File the Petition for Review" (Appellee Mitcham) having been filed on September 14, 2023,

IT IS ORDERED granting a first extension of time to file the petition for review on or before October 16, 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 October 16, 2023. (Tracie K. Lindeman Clerk)
3. 12-Oct-2023 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion; Minute Entry (MSCS) Filed 12/19/22 (Appellee Mitcham)
4. 13-Oct-2023 FILED: Record from CofA: Electronic Record
5. 27-Oct-2023 FILED: Response to Petition for Review and Conditional Cross-Petition for Review; Certificate of Service; Certificate of Compliance; Appendix to Response to Petition for Review and Conditional Cross-Petition for Review (Appellant State)
6. 22-Nov-2023 FILED: Response to Cross-Petition for Review; Certificate of Service; Certificate of Compliance (Appellee Mitcham)
7. 13-Dec-2023 FILED: Brief of Amicus Curiae Arizona Attorneys for Criminal Justice in Support of Appellee; Certificate of Service; Certificate of Compliance (Amicus Curiae AACJ)
8. 13-Dec-2023 FILED: Motion for Leave to File an Amicus Curiae Brief (Amicus Curiae AACJ)
9. 13-Dec-2023 On December 13, 2023, Arizona Attorneys for Criminal Justice filed a "Motion for Leave to File an Amicus Curiae Brief" along with the proposed brief. After consideration,

IT IS ORDERED the "Motion for Leave to File an Amicus Curiae Brief" is granted. The brief shall be filed as of December 13, 2023. (Hon. Kathryn H. King)
10. 7-May-2024 ORDERED: Petition for Review = GRANTED as to this rephrased issue:

"Did the Court of Appeals err in reversing the trial court's suppression order?"

FURTHER ORDERED: Cross-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 May 28, 2024. Any amicus briefs are due on or before June 11, 2024 and any responses to amicus briefs are due on or before July 1, 2024. Any amicus briefs or responses may not exceed 20 pages in length.

Justice Montgomery did not participate in the determination of this matter.
11. 10-May-2024 FILED: Record from CofA: Entire Electronic and Physical Record

Clipboard (1)

Physical Exhibits:

Hearing Date: 01/09/2020 List # 1 2 3 4 5 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 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 119 120 121 122 123 124 125 in box

Hearing Date: 03/13/2020 List # 1 2 (CD's) in box

Hearing Date: 05/06/2021 List # 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 in box

Hearing Date: 12/09/2022 List # 1 2 3 4 5 6 in box
12. 16-May-2024 NOTICE OF ORAL ARGUMENT: Set for Thursday, September 26, 2024 at 9:30 A.M. (twenty [20] minutes per side).
13. 16-May-2024 FILED: Notice of Acknowledgment of Oral Argument (Nicholas Klingerman, Ryan Green will Argue) (Appellant Mitcham)
14. 17-May-2024 FILED: Acknowledgment of Receipt [Mikel Steinfeld to Argue] (Appellee Mitcham)
15. 28-May-2024 FILED: State of Arizona's Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellant State)

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16. 28-May-2024 FILED: Mitcham's Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellee Mitcham)
17. 11-Jun-2024 FILED: Brief of Amicus Curiae Arizona Attorney General in Support of State of Arizona; Certificate of Service; Certificate of Compliance (Amicus Curiae Arizona Attorney General)
18. 11-Jun-2024 FILED: Supplemental Brief of Amicus Curiae Arizona Attorneys for Criminal Justice (AACJ) in Support of Appellee; Certificate of Service; Certificate of Compliance (Amicus Curiae AACJ)
19. 11-Jun-2024 FILED: Motion for Leave to Participate in Oral Argument; Certificate of Service (Amicus Curiae AACJ)
20. 11-Jun-2024 FILED: Brief of Amici Curiae American Civil Liberties Union and American Civil Liberties Union of Arizona in Support of Appellee; Certificate of Service; Certificate of Compliance (Amicus Curiae ACLU/ACLUAZ)
21. 11-Jun-2024 FILED: Motion to Associate Counsel Pro Hac Vice (Vera Eidelman); Certificate of Service; Exhibits 1-6 in support of Motion to Associate Counsel Pro Hac Vice (Vera Eidelman) (Amicus Curiae ACLU/ACLUAZ)
22. 11-Jun-2024 FILED: Motion for Leave to File Amicus Curiae Brief; Certificate of Service (Amicus Curiae ACLU/ACLUAZ)
23. 13-Jun-2024 On June 11, 2024, American Civil Liberties Union and American Civil Liberties Union of Arizona (Amici ACLU) filed a "Motion for Leave to File Amicus Curiae Brief" and the brief of amicus curiae.
- On the same date, Amici ACLU filed a "Motion to Associate Counsel Pro Hac Vice" asking that Vera Eidelman be allowed to appear in the above-referenced matter. Amici submitted the appropriate application and related materials, which are found to be in compliance with Rule 39(a), Rules of the Supreme Court.
- Based on the foregoing,
- IT IS ORDERED granting the Motion to Associate Counsel, authorizing Vera Eidelman to appear Pro Hac Vice before this Court in this matter for a period not to exceed one year from the date of this Order.
- IT IS FURTHER ORDERED the "Motion for Leave to File Amicus Curiae Brief" is granted. The brief shall be filed as of June 11, 2024. (Hon. Robert Brutinel)
24. 24-Jun-2024 On June 11, 2024, Amicus Curiae Arizona Attorneys for Criminal Justice filed a "Motion for Leave to Participate in Oral Argument." The motion represents that counsel for Appellee "has offered to share his allotment of time with Mr. Euchner."
- IT IS ORDERED granting the motion. Counsel for Appellee Mitcham may cede part of the twenty (20) minutes allotted for appellee's oral argument to counsel for Arizona Attorneys for Criminal Justice to argue as amicus curiae. (Hon. Robert Brutinel)
25. 1-Jul-2024 FILED: Mitcham's Response to Amicus Brief of the Attorney General; Certificate of Service; Certificate of Compliance (Appellee Mitcham)
26. 1-Jul-2024 FILED: Consolidated Response to Amici Curiae American Civil Liberties Union and ACLU of Arizona and the Arizona Attorneys for Criminal Justice; Certificate of Service; Certificate of Compliance (Appellant State)
27. 10-Jul-2024 Justice William G. Montgomery is recused and will not participate in the above captioned matter. Therefore, pursuant to Article 6, Section 3 of the Arizona Constitution,
- IT IS ORDERED that the Honorable Jeffrey Sklar, Judge of the Arizona Court of Appeals, Division Two, Tucson, is designated to sit on the case until it is finally determined. (Hon. Ann A. Scott Timmer)