

Arizona Supreme Court
Criminal Petition for Review - Special Action

CR-23-0297-PR

STATE OF ARIZONA v HON. GREEN/ACUNA-VALENZUELA

Appellate Case Information

Case Filed: 21-Nov-2023
Case Closed:

Dept/Composition

Side 1. STATE OF ARIZONA, Petitioner

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Petitioner

Laura P Chiasson, Esq. (AZ Bar No. 19025)
Andrew Reilly, Esq. (AZ Bar No. 29138)
Kristin K. Mayes, Esq. (AZ Bar No. 022584)

Side 2. HON. JENNIFER GREEN, JUDGE OF THE SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of Maricopa, Respondent Judge

(Litigant Group) HON. JENNIFER GREEN, JUDGE OF THE SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of Maricopa

- Hon Jennifer E Green, Maricopa County Superior Court

Side 3. JOSE ACUNA-VALENZUELA, Real Party in Interest

(Litigant Group) JOSE ACUNA-VALENZUELA

- Jose Alejandro Acuna Valenzuela

Attorneys for: Real Party in Interest

Michael S Reeves, Esq. (AZ Bar No. 10420)
Amy P Knight, Esq. (AZ Bar No. 31374)

Side 4. MCAO, Amicus Curiae

(Litigant Group) MCAO

- Maricopa County Attorney's Office

Attorneys for: Amicus Curiae

Julie A Done, Esq. (AZ Bar No. 24370)
Ryan Green, Esq. (AZ Bar No. 21102)

CASE STATUS

Dec 14, 2023....Pending

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA	1 CA-SA 23-0196					
↗ MAR	CR2006-129786-001			Jennifer E Green, Authoring Judge of Order Comments: (none)		
↗ MAR	CR2010-048824-001			Jennifer E Green, Authoring Judge of Order Comments: (none)		
↗ MAR	CR2011-140108-001			Jennifer E Green, Authoring Judge of Order Comments: (none)		

12 PROCEEDING ENTRIES

- 21-Nov-2023 FILED: [STRICKEN Per ASC Order Filed 12/4/2023] RPI's Joint Petition for Review of a Special Action Decision of the Court of Appeals; Certificate of Service; (Copy of) Appointment of Counsel; Certificate of Compliance (Real Parties in Interest Johnson et al.)
- 21-Nov-2023 FILED: Motion to Exceed Word Limit Re: RPI's Joint Petition for Review of a Special Action Decision of the Court of Appeals; Certificate of Service (Real Parties in Interest Johnson et al.)
- 22-Nov-2023 FILED: Record from CofA: Electronic Record

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4. 27-Nov-2023 Real Parties in Interest filed a "Motion to Exceed Word Limit" on November 21, 2023. Pursuant to Arizona Rules of Criminal Procedure, 31.6(e), a motion for a procedural order must include a statement by the moving party of whether the other parties consent to, or object to, the entry of the order that is sought; or why the moving party was unable to contact the other parties before filing the motion and the caption of a motion for procedural order must include the words, "Motion for Procedural Order." Therefore,

IT IS ORDERED the motion is denied without prejudice to Real Parties in Interest's ability to file a motion in compliance with Arizona Rules of Crim. Proc. Rule 31.6(e). (Tracie K. Lindeman Clerk)
5. 28-Nov-2023 FILED: Motion for Procedural Order Re: RPI's Joint Petition for Review of a Special Action Decision of the Court of Appeals; Certificate of Service (Real Party in Interest Johnson et al.)
6. 28-Nov-2023 FILED: RRPI Parker's and RPI Acuna-Valenzuela's Joinder in Notice of Conflict and Request Recusal: Justices Beene, Lopez IV and Montgomery; Certificate of Service (Real Party in Interest Johnson et al.)

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12 PROCEEDING ENTRIES

7. 4-Dec-2023 On November 21, 2023, Real Parties in Interest James Clayton Johnson ("Johnson"), Steven John Parker ("Parker"), and Jose Acuna-Valenzuela ("Acuna-Valenzuela") (collectively "Real Parties in Interest") filed RPI's Joint Petition for Review of a Special Action Decision of the Court of Appeals.
- On November 22, 2023, Johnson filed a Notice of Conflict and Requested Recusal: Justices Beene, Lopez IV, and Montgomery.
- On November 28, 2023, Parker and Acuna-Valenzuela filed RPI Parker and RPI Acuna-Valenzuela's Joinder in Notice of Conflict and Requested Recusal: Justices Beene, Lopez IV, and Montgomery.
- Justice Lopez having previously notified the Clerk's Office of his recusal as to each of the Real Parties in Interest in this matter,
- IT IS ORDERED that the Notice of Conflict and Requested Recusal seeking the recusal of Justice Lopez as to the Real Parties in Interest is denied as moot.
- Justice Beene having previously notified the Clerk's Office of his recusal as to Real Party in Interest Parker,
- IT IS ORDERED that the Notice of Conflict and Requested Recusal seeking the recusal of Justice Beene, as to Real Party in Interest Parker, is denied as moot.
- Notwithstanding Justice Beene's recusal as to Real Party in Interest Parker, contrary to the statement that "Justice Beene's tenure in [] either MCAO and/or the AGO covers all three capital cases in these proceedings," Justice Beene was with neither the Maricopa County Attorney's Office nor the Arizona Attorney General's Office while those offices represented the State of Arizona during Real Party in Interest Johnson's and Real Party in Interest Acuna-Valenzuela's cases. Therefore,
- IT IS FURTHER ORDERED that the Notice of Conflict and Requested Recusal seeking the recusal of Justice Beene as to this matter involving Real Party in Interest Johnson's case and Real Party in Interest Acuna-Valenzuela's case is denied.
- Justice Montgomery having previously notified the Clerk's Office of his recusal as to Real Party in Interest Johnson and Real Party in Interest Acuna-Valenzuela,
- IT IS ORDERED that the Notice of Conflict and Requested Recusal seeking the recusal of Justice Montgomery as to Real Party in Interest Johnson and Real Party in Interest Acuna-Valenzuela is denied as moot.
- Notwithstanding Justice Montgomery's recusal as to Real Party in Interest Johnson and Real Party in Interest Acuna-Valenzuela, Justice Montgomery, although employed by the Maricopa County Attorney's Office, was not involved in Real Party in Interest Parker's trial, which concluded prior to Justice Montgomery becoming the Maricopa County Attorney. Therefore,
- IT IS FURTHER ORDERED that the Notice of Conflict and Requested Recusal seeking the recusal of Justice Montgomery as to this matter involving Real Party in Interest Parker's case is denied.
- Sua sponte,
- IT IS FURTHER ORDERED that this consolidated matter is divided into three separate matters, as follows:
- As the initially named real party in interest, Johnson's petition for review shall continue under the instant case number CR-23-0292-PR.
- Real Party in Interest Parker's matter shall proceed as CR-23-0296-PR.
- Real Party in Interest Acuna-Valenzuela's matter shall proceed as CR-23-0297-PR.
- IT IS FURTHER ORDERED that the caption of this matter is hereby amended to reflect this order.
- IT IS FURTHER ORDERED that Johnson shall have ten days from the date of this order to file an amended petition for review in this matter addressing the issue presented in the RPI's Joint Petition strictly related to Maricopa County Superior Court case CR2010-048824-001. The amended petition for review shall strictly adhere to the requirements of Ariz. R.P. Spec. Act. 8 and Ariz. R. Crim. P. 31.21.
- IT IS FURTHER ORDERED that Parker shall have ten days from the date of this order to file an amended petition for review in case number CR-23-0296-PR addressing the issue presented in the RPI's Joint Petition strictly related to Maricopa County Superior Court case CR2006-129786-001. The amended petition for review shall strictly adhere to the requirements of Ariz. R.P. Spec. Act. 8 and Ariz. R. Crim. P. 31.21.
- IT IS FURTHER ORDERED that Acuna-Valenzuela shall have ten days from the date of this order to file an amended petition for review in case number CR-23-0297-PR addressing the issue presented in the RPI's Joint Petition strictly related to Maricopa County Superior Court case CR2011-140108-001. The amended petition for review shall strictly adhere to the requirements of Ariz. R.P. Spec. Act. 8 and Ariz. R. Crim. P. 31.21.
- IT IS FURTHER ORDERED that the State of Arizona may file a response to each amended petition pursuant to Ariz. R. Crim. P. 31.21.
- IT IS FURTHER ORDERED that the Clerk of the Court shall file this order in this matter and contemporaneously in matters CR-23-0296-PR and CR-23-0297-PR.

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The Court will consider each Amended Petition for Review of a Special Action Decision of the Court of Appeals in due course.
(Hon. Kathryn H. King)

8. 14-Dec-2023 FILED: Renewed Request for Recusal of Justice Beene; Certificate of service (Real Party in Interest Acuna-Valenzuela)
9. 14-Dec-2023 FILED: Petition for Review of Special Action Decision of the Court of Appeals; Certificate of Service; Certificate of Compliance; Appendix (Real Party in Interest Acuna-Valenzuela)
10. 14-Dec-2023 FILED: (Copy of) Appointment of Counsel (Real Party in Interest Acuna-Valenzuela)
11. 20-Dec-2023

On November 21, 2023, Real Party in Interest Jose Acuña Valenzuela ("Acuña Valenzuela") filed RPI's Joint Petition for Review of a Special Action Decision of the Court of Appeals.

On November 28, 2023, Acuña Valenzuela filed RPI Acuña Valenzuela [] Joinder in Notice of Conflict and Requested Recusal: Justices Beene, Lopez IV, and Montgomery joining in a November 22, 2023, Notice of Conflict and Requested Recusal: Justices Beene, Lopez IV, and Montgomery filed in the then consolidated case CR-23-0292-PR.

On December 4, 2023, inter alia, the Court denied Acuña Valenzuela's Notice of Conflict and Requested Recusal seeking the recusal of Justice Beene as to the then consolidated case involving Acuña Valenzuela and divided the consolidated case into three separate matters.

On December 14, 2023, in conjunction with filing his amended Petition for Review of a Special Action Decision of the Court of Appeals pursuant to the Court's December 4, 2023 order, Acuña Valenzuela filed a Renewed Request for Recusal of Justice Beene again requesting the recusal of Justice Beene from participation in this case.

Upon consideration of Acuña Valenzuela's Renewed Request for Recusal of Justice Beene,

IT IS ORDERED that the request for recusal of Justice Beene is granted as to this matter (CR-23-0297-PR) only. (Hon James P Beene)
12. 16-Jan-2024 FILED: The State of Arizona's Response to Petition for Review; Certificate of Service; Certificate of Compliance (Petitioner State)