

Arizona Supreme Court
Criminal Petition for Review-Post Conviction (ASC)

CR-24-0166-PR

STATE OF ARIZONA v BOBBY EUGENE FAIR

Appellate Case Information

Case Filed: 8-Jul-2024 Archive on: 10-Jul-2034 (planned)
Case Closed: 10-Jul-2024

Dept/Composition

Side 1. STATE OF ARIZONA, Respondent

(Litigant Group) STATE OF ARIZONA

- State of Arizona

Attorneys for: Respondent

Philip D Garrow, Esq. (AZ Bar No. 22458)

Side 2. BOBBY EUGENE FAIR, Petitioner

(Litigant Group) BOBBY EUGENE FAIR

- Bobby Eugene Fair

PRO SE

CASE STATUS

Jul 10, 2024.....Case Closed

Jul 10, 2024.....Decision Rendered

| PREDECESSOR CASE(S) | Cause/Charge/Class | Judgment/Sentence | Judge, Role <Comments> | Trial | Dispo |
|---------------------|----------------------|-------------------|--|-------|-------|
| 1 CA | 1 CA-CR 23-0328 PRPC | | | | |
| ↳ MAR | CR2002-017413 | | Ronee Korbin Steiner, Judge on PC Comments: (none) | | |

CASE DECISION

10-Jul-2024 **ORDER**

* On April 5, 2023, Petitioner Fair, pro se, filed a "Notice of Filing of Petition for Review" in superior court. The superior court dismissed Petitioner's seventh Rule 32 proceeding on June 14, 2023, finding his arguments challenging his convictions and

Filed: 10-Jul-2024

Mandate:

Decision Disposition

Dismissed

Kathryn King

3 PROCEEDING ENTRIES

1. 8-Jul-2024 FILED: Petition for Review (Petitioner Fair, Pro Se)
2. 8-Jul-2024 FILED: Motion for the Release of Petitioner Bobby Eugene Fair from the Arizona Department of Corrections Rehabilitation & Re-Entry Custody Pending the Appeals Process (Petitioner Fair, Pro Se)

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3 PROCEEDING ENTRIES

3. 10-Jul-2024 On April 5, 2023, Petitioner Fair, pro se, filed a "Notice of Filing of Petition for Review" in superior court. The superior court dismissed Petitioner's seventh Rule 32 proceeding on June 14, 2023, finding his arguments challenging his convictions and sentences precluded.
- Petitioner filed a petition for review in the Court of Appeals. The Court of Appeals issued its decision granting review and denying relief on May 16, 2024. The Court of Appeals issued the mandate on June 24, 2024.
- Petitioner filed a "Petition for Review" in this Court on July 8, 2024. Petitioner attaches to that Petition a copy of the "Decision Distribution Notification" that includes two separate date stamps, including the Decision Distribution Notification reflecting the Clerk of the Court of Appeals' May 16, 2024 filing date and an errant stamp from May 28, 2024, that does not appear on the distribution notice in the Court of Appeals.
- A party may file a petition for review in this Court to review a decision of the Court of Appeals. Ariz. R. Crim. P. 31.21(a). Under Rule 31.21(b)(2)(A), "A party must file a petition for review no later than 30 days after the Court of Appeals enters its decision, unless a party files a timely motion for reconsideration in the Court of Appeals and, in that event, a party must file a petition for review no later than 15 days after the motion's final disposition." Any petition for review of the decision of the Court of Appeals was therefore due on June 17, 2024. Accordingly, Petitioner's "Petition for Review" filed on July 8, 2024 was untimely, and Petitioner did not seek a timely extension of time to file a petition for review.
- On July 8, 2024, Petitioner also filed a "Motion for the Release of Petitioner Bobby Eugene Fair from the Arizona Department of Corrections Rehabilitation & Re-Entry Custody Pending the Appeals Process" ("Motion for Release"). Petitioner seeks release based on his contentions that he "is not receiving the medical treatment for his life threatening medical conditions in ADCRR."
- To the extent Petitioner seeks relief for reasons not presented in the court of appeals, this matter is not properly presented as a petition for review or as a special action. Any special action must comply with the Arizona Rules of Procedure for Special Actions, specifically Ariz. R.P. Spec. Act 7(b). Accordingly,
- IT IS ORDERED dismissing the "Petition for Review" as untimely.
- IT IS FURTHER ORDERED denying the "Motion for Release" without prejudice to Petitioner filing a proper superior court proceeding challenging the conditions of his confinement. The Court takes no position on the merits of matters raised in the "Motion for Release." (Hon. Kathryn H. King)
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