

Arizona Supreme Court
Miscellaneous Special Action

M-24-0017

JAMES EDWARD FREEMAN JR. v HON. FISK/STATE

Appellate Case Information

Case Filed: **15-Apr-2024** Archive on: 30-Apr-2034 (planned)
Case Closed: **30-Apr-2024**

Dept/Composition

Side 1. JAMES EDWARD FREEMAN JR., Petitioner

(Litigant Group) JAMES EDWARD FREEMAN JR.

- James Edward Freeman, Jr. PRO SE

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

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

- Hon Ronda R Fisk, Maricopa County Superior Court

Side 3. STATE OF ARIZONA, Real Party in Interest

(Litigant Group) STATE OF ARIZONA

- State of Arizona

CASE STATUS

Apr 30, 2024.....**Case Closed**

Apr 30, 2024.....**Decision Rendered**

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR2019-129519-001			Ronda R Fisk, Authoring Judge of Order		

CASE DECISION

30-Apr-2024 ORDER

* On April 15, 2024, Petitioner James Edward Freeman, Jr. filed a Petition for Special Action/Review with Memorandum and Attachment requesting review of the superior court's order dismissing his petition for post-conviction relief pursuant to Ariz. R. Cri

Filed: **30-Apr-2024**

Mandate:

Decision Disposition

Granted

John Lopez

2 PROCEEDING ENTRIES

1. 15-Apr-2024 FILED: Petition for Special Action/Review with Memorandum and Attachment (Petitioner Freeman, Pro Se)

Arizona Supreme Court
Miscellaneous Special Action

M-24-0017

JAMES EDWARD FREEMAN JR. v HON. FISK/STATE

2 PROCEEDING ENTRIES

2. 30-Apr-2024 On April 15, 2024, Petitioner James Edward Freeman, Jr. filed a Petition for Special Action/Review with Memorandum and Attachment requesting review of the superior court's order dismissing his petition for post-conviction relief pursuant to Ariz. R. Crim. P. 33 and the court of appeals' order dismissing his petition for review as untimely.
- Initially, the Court observes that the court of appeals in its July 3, 2023 and September 1, 2023 orders states that the superior court dismissed Petitioner's petition for post-conviction relief in an order entered on February 22, 2023 and denied petitioner's motion for rehearing in an order entered on May 8, 2023, and "Petitioner did not file the petition for review until July 3, 2023.
- However, in neither order does the court of appeals acknowledge Petitioner's Motion for 30-day Extension of Time to File Petition for Review that was filed on the docket by the Maricopa County Superior Court Clerk on June 14, 2023. Petitioner states, although the motion reflects that he signed it on May 19, 2023, that he mailed the motion on May 22, 2023.
- The superior court denied the motion for extension of time to file petition for review on August 14, 2023. Later, in a minute entry dated November 20, 2023, the superior court stated that "[even] had [the court] received the [May 22, 2023] motion before [Petitioner] filed [the July 3, 2023 petition for review] the court would have denied the request for an extension of time," noting that the motion was "untimely and moot" based on procedural posture.
- Upon consideration, by the full Court, and good cause appearing,
- THE COURT FINDS that the superior court erred in its statement that Petitioner's motion for reconsideration of the court's February 22, 2023 ruling is not envisioned by the Arizona Rules of Criminal Procedure. See Ariz. R. Crim. P. 33.14(a) (allowing any aggrieved party to file a motion for rehearing "[n]o later than 15 days after entry of the trial court final decision on a petition").
- THE COURT FURTHER FINDS that the superior court, without a finding that the motion was untimely, denied the motion on May 8, 2023, as observed by the court of appeals.
- THE COURT FURTHER FINDS that Petitioner's Motion for 30-day Extension of Time to File Petition for Review filed on the docket by the superior court clerk on June 14, 2023, was timely filed by Petitioner upon its mailing on May 22, 2023. See Ariz. R. Crim. P. 1.7(b)(4) ("If a party is incarcerated . . . the court must deem the filing date to be the date when the document was delivered to jail or prison authorities to deposit in the mail.").
- Therefore, pursuant to the Court's authority to "[f]or good cause. . . suspend any provision of this rule in a particular case, and may order such proceedings as the court directs," Ariz. R. Crim. P. 31.3(a), and "[f]or good cause and after considering the rights of the victim. . . shorten or extend the time for doing any act required by Rule 31," Ariz. R. Crim. P. 31.3(e),
- IT IS ORDERED that Petitioner's Petition for Special Action/Review is granted.
- IT IS FURTHER ORDERED that the relief requested in the Petition for Special Action/Review is denied in part and granted in part.
- IT IS FURTHER ORDERED vacating the orders entered by the court of appeals in 1 CA-CR 23-0260 PRPC on July 5, 2023, dismissing the petition for review, and on September 1, 2023, ordering that "the court will take no action regarding the motion for reconsideration."
- IT IS FURTHER ORDERED remanding this matter to the court of appeals for further proceedings and decision on Petitioner's Petition for Review filed in that court on July 3, 2023. (Hon. John R Lopez IV)
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