

# MINUTES

No. 5956

En Banc

*Arizona Supreme Court*  
Tuesday, October 17, 2017

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**CR-17-0146-PR**

**STATE OF ARIZONA v LINDA LEE CHAVEZ**

(1)

*Court of Appeals, Division One*

*1 CA-CR 16-0109*

ORDERED: Petition for Review = DENIED.

Justice Lopez did not participate in the determination of this matter.

**CR-17-0156-PR**

**STATE OF ARIZONA v SANTIAGO RENE RODRIGUEZ**

(2)

*Court of Appeals, Division Two*

*2 CA-CR 17-0001 PRPC*

ORDERED: Petition for Review = DENIED.

**CV-17-0147-PR**

**IMH v APERION/NDM/MCA et al**

(3)

*Court of Appeals, Division One*

*1 CA-CV 13-0131*

*1 CA-CV 14-0432*

*1 CA-CV 15-0182*

*1 CA-CV 15-0413*

*1 CA-CV 15-0474*

*1 CA-CV 15-0475*

*1 CA-CV 15-0514*

*1 CA-CV 15-0615*

ORDERED: Petition for Review = DENIED.

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**CV-17-0161-PR**

(4)

**IN RE ROBERT SOMMER**

*Court of Appeals, Division Two*

*2 CA-CV 16-0111 FC*

ORDERED: Appellant's Petition for Review = DENIED.

**CV-17-0184-PR**

(5)

**DANIEL S. v DCS/I.S./I.S.**

*Court of Appeals, Division One*

*1 CA-JV 16-0448*

ORDERED: Appellant Father Daniel S.'s Petition for Review = DENIED.

**CV-17-0206-PR**

(6)

**KELLE W. v DCS/E.W./N.W.**

*Court of Appeals, Division One*

*1 CA-JV 16-0439*

ORDERED: Petition for Review = DENIED.

**CV-17-0240-PR**

(7)

**TERRY YAHWEH v CITY OF PHOENIX**

*Court of Appeals, Division One*

*1 CA-CV 16-0270*

ORDERED: Appellant's Petition for Review = DENIED.

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**CR-16-0072-PC**  
(8)

**STATE OF ARIZONA v ALVIE COPELAND KILES**

*Yuma County Superior Court*

*SC89C15444*

*SC89C15577*

ORDERED: Petition for Review Re: Dismissal, Petition for Post-Conviction Relief = DENIED.

Justice Gould and Justice Lopez did not participate in the determination of this matter.

**CR-17-0149-PR**  
(9)

**STATE OF ARIZONA v FULLER WAYNE SMITH**

*Court of Appeals, Division Two*

*2 CA-CR 15-0357*

ORDERED: The State of Arizona's Petition for Review = DENIED.

**CR-17-0150-PR**  
(10)

**STATE OF ARIZONA v RAY MCINTIRE JR**

*Court of Appeals, Division One*

*1 CA-CR 15-0297 PRPC*

ORDERED: Petition for Review = DENIED.

**CR-17-0222-PR**  
(11)

**STATE OF ARIZONA v MICHAEL ARTHUR MARSH**

*Court of Appeals, Division One*

*1 CA-CR 15-0257*

ORDERED: Petition for Review = DENIED.

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**CR-17-0223-PR**  
(12)

**STATE OF ARIZONA v GABRIEL MACIAS**

*Court of Appeals, Division One*

*1 CA-CR 15-0505*

ORDERED: Appellant's Petition for Review = DENIED.

Justice Gould did not participate in the determination of this matter.

**CV-17-0069-PR**  
(13)

**PHOENIX-TUCSON RANCH LLC v ENGELSTAD et al**

*Court of Appeals, Division One*

*1 CA-CV 14-0780*

*1 CA-CV 15-0212*

*1 CA-CV 16-0075*

ORDERED: Petition for Review = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellants Phoenix-Tucson Ranch LLC et al) = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellees Englestad et al) = GRANTED.

**CV-17-0084-PR**  
(14)

**JO ANN YEAGER v STATE FARM**

*Court of Appeals, Division One*

*1 CA-CV 15-0855*

ORDERED: Petition for Review = DENIED.

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**CV-17-0121-PR**  
(15)

**ELIZABETH ERENE EVERS v KERRY WILLIAMS ROSE**  
*Court of Appeals, Division One*                      *1 CA-CV 16-0122 FC*

ORDERED: Appellant's Petition for Review = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellant Rose) = DENIED.

**CV-17-0168-PR**  
(16)

**JOHN PECK v SABINE PECK**  
*Court of Appeals, Division Two*                      *2 CA-CV 16-0131 FC*

ORDERED: Appellant's Petition for Review = DENIED.

**CV-17-0174-PR**  
(17)

**ARIK COMPANY v RGO LLC**  
*Court of Appeals, Division One*                      *1 CA-CV 15-0653*

ORDERED: Cameron A. Morgan's Petition for Review = DENIED.

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**CV-17-0175-PR**  
(18)

**FRANCENE VINCENT v PATRICK SHANOVICH**

*Court of Appeals, Division One*

*1 CA-CV 16-0431 FC*

ORDERED: 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.

FURTHER ORDERED: Request for Attorneys' Fees (Appellee Vincent) = CONTINUED.

**CV-17-0178-PR**  
(19)

**IAN NEAL ORNSTEIN v BANK OF AMERICA NA et al**

*Court of Appeals, Division One*

*1 CA-CV 16-0220*

ORDERED: Petition for Review = DENIED.

**CV-16-0280-PR**  
(20)

**BARRETT JOHNSON v ALMIDA LAND & CATTLE CO**

*Court of Appeals, Division One*

*1 CA-CV 15-0416*

ORDERED: Almida Land & Cattle Company, LLC's Petition for Review = CONTINUED.

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**CR-17-0095-PR**  
(21)

**STATE OF ARIZONA v CLAYTON PAUL FARNSWORTH**  
*Court of Appeals, Division Two*                      2 CA-CR 15-0382

ORDERED: Petition for Review to Arizona Supreme Court = GRANTED, vacating paragraphs 13-24 of the court of appeals' opinion and remanding to the court of appeals for reconsideration in light of *Wright v. Gates (State)*, No. CR-16-0435-PR, 2017 WL 4399231 (Ariz. Oct. 4, 2017).

Justice Lopez did not participate in the determination of this matter.

**CR-17-0111-PR**  
(22)

**STATE OF ARIZONA v OTIS LEE GRIFFIN**  
*Court of Appeals, Division Two*                      2 CA-CR 16-0105

ORDERED: Petition for Review to Arizona Supreme Court = GRANTED, vacating the court of appeals' memorandum decision and remanding to the court of appeals for reconsideration in light of *State v. Burbey*, No. CR-16-0390-PR, 2017 WL 4558218 (Ariz. Oct. 13, 2017).

Justice Lopez did not participate in the determination of this matter.

**CR-17-0175-PR**  
(23)

**STATE OF ARIZONA v LAWRENCE ALLAIN JR**  
*Court of Appeals, Division One*                      1 CA-CR 15-0051 PRPC

ORDERED: Petition for Review = CONTINUED.

Justice Gould did not participate in the determination of this matter.

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**CR-17-0250-PR**  
(24)

**JUDITH ELAINE WALTHERS v HON ASTROWSKY/STATE**  
*Court of Appeals, Division One*                      *1 CA-SA 17-0106*

ORDERED: Petition for Review of a Special Action Decision of the Court of Appeals = CONTINUED.

**CV-17-0126-PR**  
(25)

**STATE ex rel POLK v HON. YOUNG/HORACIA B. et al**  
*Court of Appeals, Division One*                      *1 CA-SA 17-0104*

ORDERED: Petition for Review of Special Action Decision of the Court of Appeals = DENIED.

Justice Gould voted to grant review.

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**CV-17-0136-PR**  
(26)

**BRENDA D. v DCS/Z.D.**

*Court of Appeals, Division One*

*1 CA-JV 16-0277*

ORDERED: Arizona Department of Child Safety's Petition for Review =  
GRANTED on the following two issues:

(1) Did the court of appeals err in holding that, for purposes of A.R.S. section 8-863(C) and Arizona Rule of Juvenile Procedure 66(D)(2), "a parent has not 'failed to appear' simply because he or she is tardy without good cause"?

(2) Did the court of appeals err in holding that the parent's due process rights were violated by the juvenile court placing restrictions on counsel before the parent's arrival at the hearing and refusing to allow the parent to testify based on a tardy arrival?

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.

**CV-17-0176-PR**  
(27)

**MILES R DRUEBERT v ICA/ALLIED WASTE et al**

*Court of Appeals, Division One*

*1 CA-IC 16-0030*

ORDERED: Petition For Review = DENIED.



The foregoing action was taken by the Arizona Supreme Court on Tuesday,  
October 17, 2017.

\_\_\_\_\_ Date: \_\_\_\_\_  
Scott Bales, Chief Justice