

SUPREME COURT OF ARIZONA

STATE OF ARIZONA,) Arizona Supreme Court
) No. CR-11-0107-AP
 Appellee,)
) Pima County Superior Court
 v.) No. CR20092300-003
)
 JASON EUGENE BUSH,) **FILED 05/29/2014**
)
 Appellant.)
)
 _____) **O R D E R**

The full Court has considered Appellant's Motion to Stay Appeal and Remand to Supplement Appellate Record, the State's Response, and Appellant's Reply. The motion alleges that upon reading this Court's opinion in State v. Forde, 233 Ariz. 543, 315 P.3d 1200 (2014), Appellant's counsel "learned for the first time of the existence of 234 pages of FBI reports that were disclosed to Forde's attorneys" and that "these reports were either not disclosed at all, or were not adequately disclosed, to Mr. Bush's trial counsel." The opinion noted that shortly before the start of Shawna Forde's trial, the State disclosed FBI reports containing a witness's statement that Leland "Red" Sprout had been involved in the shootings. In denying relief on Forde's claim that the trial court erred in denying her motion for a trial continuance, the opinion noted:

Forde also argues that the belated disclosure constituted "extraordinary circumstances" justifying a continuance because an investigation could have revealed evidence of Sprout's involvement, which would have created a reasonable doubt about Forde's guilt or the appropriateness of death

sentences. We disagree. Although Sprout's involvement could have cast doubt on Bush's presence at the shootings, it would not have shown Forde's absence or otherwise tended to exculpate her.

233 Ariz. at 555 ¶ 21, 315 P.3d at 1212.

In light of the unique circumstances of this case,
IT IS ORDERED staying the appeal in CR-11-0107-AP.

IT IS FURTHER ORDERED remanding this case to the Pima County Superior Court for the purpose of entertaining a Rule 32 petition for post-conviction relief limited to a claim of the alleged non-disclosure or inadequate disclosure of the 234 pages of FBI reports to Jason Bush's trial counsel. The superior court shall promptly appoint counsel, set a schedule for the filing of the petition, response, and reply, and notify this Court when the Rule 32 proceeding is concluded. The filing of this limited Rule 32 petition shall not preclude the raising of other Rule 32 claims in the future.

IT IS FURTHER ORDERED denying other relief requested in Appellant's motion.

DATED this 29th day of May, 2014.

REBECCA WHITE BERCH
Chief Justice

TO:

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Susanne Bartlett Blomo

Jeffrey L Sparks

John L Saccoman

Brent E Graham

Jason Eugene Bush, ADOC 263227, Arizona State Prison, Florence -
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Hon Sarah R Simmons

Hon Paul E Tang

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