

DAVID J. EUCHNER, SB#021768
33 N. Stone Ave., 21st Floor, Tucson, AZ 85701
TEL: (520) 724-6800
E-Mail: david.euchner@pima.gov

KEVIN D. HEADE, SB#029909
620 W. Jackson St., Suite 4015, Phoenix, AZ 85003
TEL: (602) 506-7711
E-Mail: kevin.heade@maricopa.gov

Attorneys for Arizona Attorneys for Criminal Justice

IN THE ARIZONA SUPREME COURT

STATE OF ARIZONA,)	No. CR-13-0282-AP
)	
Appellee,)	Maricopa County Superior Court
v.)	No. CR2003-038541-001
)	
AARON BRIAN GUNCHES,)	MOTION FOR LEAVE TO FILE
)	AN <i>AMICUS CURIAE</i> BRIEF
Appellant.)	
_____)	

Amicus Curiae Arizona Attorneys for Criminal Justice (AACJ) moves this Court for leave to file the accompanying lodged *amicus curiae* brief. Applicant has read the pleadings of both parties and the victim filed in this Court, and applicants' interest in this litigation is detailed below.

AACJ, the Arizona state affiliate of the National Association of Criminal Defense Lawyers, was founded in 1986 in order to give a voice to the rights of the criminally accused and to those attorneys who defend the accused. AACJ is a statewide not-for-profit membership organization of criminal defense lawyers, law

students, and associated professionals dedicated to protecting the rights of the accused in the courts and in the legislature, promoting excellence in the practice of criminal law through education, training and mutual assistance, and fostering public awareness of citizens' rights, the criminal justice system, and the role of the defense lawyer.

AACJ offers this brief in part because the defendant is self-represented. *See* [Ariz. R. Crim. P. 31.15\(b\)\(2\)\(B\)\(i\)](#). Although Aaron Gunches now has advisory counsel, he is still acting as his own counsel with limited access to a law library. AACJ is also concerned about the ramifications of a judicial encroachment into areas properly reserved for the executive branch. The question presented for briefing in this Court's order dated January 31, 2023, assumes a power it does not have: the power to order an execution even when the executive branch has not requested it. A withdrawn motion has the same legal effect as no motion at all. Furthermore, the stated bases for the Attorney General's withdrawal of its motion reflect a need to conduct a broader inquiry into how the executive branch seeks warrants and carries out executions—an investigative process that invokes the political question doctrine.

DATED: February 16, 2023.

By /s/ David J. Euchner
David J. Euchner and Kevin D. Heade
Attorneys for *amicus curiae*
Arizona Attorneys for Criminal Justice