

SUPREME COURT OF ARIZONA

|                              |   |                         |
|------------------------------|---|-------------------------|
| KRISTEN K. MAYES, ARIZONA    | ) | Arizona Supreme Court   |
| ATTORNEY GENERAL,            | ) | No. CV-24-0127-SA       |
|                              | ) |                         |
| Petitioner,                  | ) |                         |
|                              | ) |                         |
| v.                           | ) |                         |
|                              | ) |                         |
| RACHEL H. MITCHELL, MARICOPA | ) |                         |
| COUNTY ATTORNEY,             | ) | <b>FILED 12/12/2024</b> |
|                              | ) |                         |
| Respondent,                  | ) |                         |
|                              | ) |                         |
| AARON BRIAN GUNCHES,         | ) |                         |
|                              | ) |                         |
| Real Party in Interest.      | ) |                         |
| _____                        | ) |                         |

O R D E R

On June 5, 2024, in Arizona Supreme Court No. CR-13-0282-AP (*State of Arizona v. Aaron Brian Gunches*), the Respondent Maricopa County Attorney Rachel Mitchell ("MCAO") filed a *Motion to Set Briefing Schedule for Motion for Warrant of Execution* ("MCAO Motion").

On June 19, 2024, the Petitioner Arizona Attorney General Kristin Mayes ("AG") filed *State of Arizona's Motion to Strike Non-Party Maricopa County Attorney's Motion to Set Briefing Schedule for Motion for Warrant of Execution* ("AG Motion"), arguing that "the authority to request a warrant of execution, . . . rests exclusively with the Attorney General."

On June 24, 2024, on its own motion, the Court ordered that the issue presented by the *AG Motion* would be considered as a separate petition for special action relief and that the special

action would proceed as this matter (CV-24-0127-SA), and the Court would consider:

Whether the constitutional and statutory authority, power, and duty to request a warrant of execution pursuant to A.R.S. § 13-759(A) and Ariz. R. Crim. P. 31.23(a) and (b) rests exclusively with the Arizona Attorney General.

See CR-13-0282-AP, ASC Order dated June 24, 2024, at 2.

On December 6, 2024, the Attorney General filed on behalf of Appellee State of Arizona, a *Motion to Set Briefing Schedule for Motion for Warrant of Execution* in CR-13-0282-AP. Also on December 6, 2024, *sua sponte*, the Court ordered the AG and MCAO to file motions in CR-13-0282-AP and CV-24-0127-SA, either withdrawing their respective motions or explaining why the motions in CR-13-0282-AP and the special action in CV-24-0127-SA, should not be dismissed.

On December 9, 2024, in CR-13-0282-AP, the MCAO filed a *Motion to Withdraw MCAO's June Motion to Set Briefing Schedule*. On December 10, 2024, in CV-24-0127-SA, the MCAO filed a *Motion to Dismiss Special Action Proceeding*.

On December 10, 2024, the Attorney General filed a *Motion to Withdraw State of Arizona's Motion to Strike Non-Party Maricopa County Attorney's Motion to Set Briefing Schedule for Motion for Warrant of Execution* in CR-13-0282-AP, and a *Motion to Dismiss Special Action Petition* in CV-24-0127-SA.

Upon consideration by the full Court,

**IT IS ORDERED** granting the MCAO's *Motion to Dismiss Special Action Proceeding*.

