

# MINUTES

No. 7155

En Banc

*Arizona Supreme Court*  
Tuesday, August 25, 2020

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**CR-19-0414-PR**

**STATE OF ARIZONA v EVAN WILLIAM GRACE**

(1)

*Court of Appeals, Division One*

*1 CA-CR 18-0696*

ORDERED: Petition for Review = DENIED.

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

**CR-20-0006-PR**

**STATE OF ARIZONA v JARRETT CHESYLE CARTER**

(2)

*Court of Appeals, Division Two*

*2 CA-CR 19-0056 PRPC*

ORDERED: Petition for Review From Denial of Relief; Rule 32 Petition for PostConviction Relief = DENIED.

**CR-20-0019-PR**

**STATE OF ARIZONA v MIGUEL MANSANARES**

(3)

*Court of Appeals, Division One*

*1 CA-CR 18-0687*

ORDERED: Petition for Review (Oral Argument Requested) = DENIED.

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

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**CR-20-0029-PR**

(4)

**NEKO WILSON v HON. HIGGINS/STATE ex rel CARLYON**

*Court of Appeals, Division One*

*1 CA-SA 19-0286*

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

**CR-20-0057-PR**

(5)

**JOHN C RAUCH v HON. RECKART/STATE**

*Court of Appeals, Division One*

*1 CA-SA 20-0025*

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

Chief Justice Brutinel and Justice Montgomery did not participate in the determination of this matter.

**CR-20-0071-PR**

(6)

**JONATHAN ARIAS v HON. DUNCAN/STATE ex rel ADEL**

*Court of Appeals, Division One*

*1 CA-SA 20-0018*

ORDERED: Petition for Review = DENIED.

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

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**CR-20-0079-PR**

**STATE OF ARIZONA v LASHAWN YOUNG JOHNSON**

(7)

*Court of Appeals, Division One*

*1 CA-CR 18-0735*

ORDERED: Petition for Review = DENIED.

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

**CR-20-0089-PR**

**WILLIAM BELL v HON. NOTHWEHR/STATE**

(8)

*Court of Appeals, Division One*

*1 CA-SA 20-0048*

ORDERED: Petition for Special Action (Treated as Petition for Review) = DENIED.

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

**CR-20-0098-PR**

**STATE OF ARIZONA v EDWARD MICHAEL GOMEZ**

(9)

*Court of Appeals, Division Two*

*2 CA-CR 18-0177*

ORDERED: Petition for Review = DENIED.

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**CR-20-0254-PR**  
(10)

**NEKO ANTHONY WILSON v HON. HIGGINS/STATE**  
*Court of Appeals, Division One*                      *1 CA-SA 20-0095*

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 September 11, 2020. Any amicus briefs are due on or before September 21, 2020, and any responses to amicus briefs are due on or before October 2, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

**CV-19-0288-PR**  
(11)

**CONTRERAS FARMS LIMITED v CITY OF PHOENIX et al**  
*Court of Appeals, Division One*                      *1 CA-CV 18-0553*

ORDERED: Petition for Review = DENIED.

FURTHER ORDERED: Cross-Petition for Review = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellant Contreras Farms Limited LLC) = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellees City of Phoenix et al) = DENIED.

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**CV-20-0012-PR**  
(12)

**PREMIUM LEAF INC v ADHS/BUDS & ROSES INC**  
*Court of Appeals, Division One*                      *1 CA-CV 18-0433*

ORDERED: Petition for Review = DENIED.

Chief Justice Brutinel did not participate in the determination of this matter.

**CV-20-0018-PR**  
(13)

**MW2 INVESTMENTS LLC v IMH SPECIAL ASSET et al**  
*Court of Appeals, Division One*                      *1 CA-CV 18-0271*

ORDERED: Amended Petition for Review = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellant/Cross-Appellee MW2 Investments LLC) = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellees/Cross-Appellants IMH Special Asset NT 168 LLC et al) = DENIED.

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

**CV-20-0056-PR**  
(14)

**RODNEY L./DEANA L. v DCS/J.L.**  
*Court of Appeals, Division One*                      *1 CA-JV 19-0087*

ORDERED: Petition for Review (Amended) = DENIED.

Chief Justice Brutinel did not participate in the determination of this matter.

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**CV-20-0087-PR**  
(15)

**GERALD D W NORTH v UBIQUITY INC**

*Court of Appeals, Division One*

*1 CA-CV 19-0229*

ORDERED: Petition for Review of Opinion of Court of Appeals = DENIED.

**CV-20-0112-PR**  
(16)

**THE STATE OF THE NETHERLANDS v MD HELICOPTERS INC**

*Court of Appeals, Division One*

*1 CA-CV 19-0019*

ORDERED: Petition for Review = GRANTED as to Issue 1 only.

FURTHER ORDERED: Request for Attorneys' Fees (Appellant MD Helicopters Inc) = CONTINUED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellee State of the Netherlands) = CONTINUED.

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 September 11, 2020. Any amicus briefs are due on or before September 21, 2020, and any responses to amicus briefs are due on or before October 2, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

Chief Justice Brutinel did not participate in the determination of this matter.

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**CV-20-0145-PR**  
(17)

**ANTONIO M. v CELINA M./D.M.**

*Court of Appeals, Division Two*

*2 CA-JV 19-0170*

ORDERED: Petition for Review to Arizona Supreme Court = DENIED.

**CR-18-0583-PR**  
(18)

**STATE OF ARIZONA v ROGER SCOTT HELM JR**

*Court of Appeals, Division Two*

*2 CA-CR 18-0062 PRPC*

ORDERED: Petition for Review to Arizona Supreme Court = CONTINUED.

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

**CR-19-0240-PR**  
(19)

**STATE OF ARIZONA v IKEMEFULA CHARLES IBEABUCHI**

*Court of Appeals, Division One*

*1 CA-CR 18-0841 PRPC*

ORDERED: Motion for Suspension of the Rules, as Provided of Post-Conviction Relief Rule 32-9(g), on, Petition for Review = DENIED.

FURTHER ORDERED: Appellant's/Petitioner's Objection to Order Filed 2/20/2020 for Motion for Publication of Memorandum Decision = DENIED.

FURTHER ORDERED: Petition for Review = GRANTED. Pursuant to A.R.S. § 13-712(B) and A.R.S. § 13-4037, and as conceded by the State, Appellant's/Petitioner's sentence will be corrected to include an additional 53 days of pre-incarceration credit. No other relief is granted.

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

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**CR-19-0305-PR**  
(20)

**STATE OF ARIZONA v CHRISTOPHER DANIEL TREJO**  
*Court of Appeals, Division Two*                      2 CA-CR 17-0422

ORDERED: Petition for Review = GRANTED as to Issue 1 only.

FURTHER ORDERED: The Court of Appeals' decision is vacated and this case is remanded to the superior court for resentencing on Counts 6 and 7 so that the sentences on those counts are concurrent with the sentence on Count 4 and commence with the beginning of the sentence on Count 4. The concurrent sentences on all three counts must total no more than fifteen years collectively.

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**CR-19-0315-PR**  
(21)

**STATE OF ARIZONA v HON. MARNER/DARREN GOLDIN**  
*Court of Appeals, Division Two*                      2 CA-SA 19-0042

ORDERED: Petition for Review of a Special Action Decision of the Court of Appeals (Oral Argument Requested) = GRANTED as to this rephrased issue only:

Did the court of appeals err by vacating the trial court's order disqualifying the Arizona Attorney General's Tucson Office from prosecuting petitioner and instructing that court to reevaluate whether disqualification is warranted based on factors identified in Gomez v. Superior Court, 149 Ariz. 223 (1986)?

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

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 September 11, 2020. Any amicus briefs are due on or before September 21, 2020, and any responses to amicus briefs are due on or before October 2, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

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**CR-19-0328-PR**  
(22)

**STATE OF ARIZONA v JACOB J NARANJO**

*Court of Appeals, Division One*

*1 CA-CR 18-0561*

*1 CA-CR 18-0891*

ORDERED: Petition for Review = DENIED.

Chief Justice Brutinel and Justice Montgomery did not participate in the determination of this matter.

**CR-19-0368-PR**  
(23)

**STATE OF ARIZONA v EASTON COURTNEY MURRAY**

*Court of Appeals, Division Two*

*2 CA-CR 18-0313*

ORDERED: Appellant's Petition for Review = GRANTED as to this rephrased issue only:

Did the prosecutor's misstatement of the reasonable-doubt standard during rebuttal argument constitute fundamental, prejudicial error?

FURTHER ORDERED: Consolidating this case with CR-20-0008-PR.

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 September 11, 2020. Any amicus briefs are due on or before September 21, 2020, and any responses to amicus briefs are due on or before October 2, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

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**CR-19-0387-PR**  
(24)

**STATE OF ARIZONA v VINCENT MENDOZA**

*Court of Appeals, Division One*

*1 CA-CR 18-0512*

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

Chief Justice Brutinel and Justice Montgomery did not participate in the determination of this matter.

**CR-19-0394-PR**  
(25)

**STATE OF ARIZONA v DAVID DWAYNE WATSON**

*Court of Appeals, Division Two*

*2 CA-CR 17-0171*

ORDERED: Petition for Review = GRANTED as to issue #2 only.

FURTHER ORDERED: The Court of Appeals' decision paragraphs 39–46 is vacated and this case is remanded to that court to reconsider the prosecutorial misconduct issue in light of *State v. Vargas*, 2020 WL 4379289 (Filed July 31, 2020).

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**CR-19-0395-PR**  
(26)

**R.S./S.E. v HON. THOMPSON/TEDDY VANDERS**

*Court of Appeals, Division One*

*1 CA-SA 19-0080*

ORDERED: Petition for Review of a Special Action Decision of the Court of Appeals = GRANTED as to this rephrased issue:

Did the court of appeals correctly hold that to be entitled to an in camera review of privileged records as a matter of due process, the defendant must establish a substantial probability that the protected records contain information critical to an element of the charge or defense or that their unavailability would result in a fundamentally unfair trial?

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 the Court's Minute Letter. Any amicus briefs are due on or before September 29, 2020, and any responses to amicus briefs are due on or before October 14, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

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

**CR-19-0411-PR**  
(27)

**STATE OF ARIZONA v MATTHEW CURTIS**

*Court of Appeals, Division Two*

*2 CA-CR 18-0266*

ORDERED: Petition for Review = DENIED.

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**CR-20-0008-PR**  
(28)

**STATE OF ARIZONA v CLAUDIUS C MURRAY**

*Court of Appeals, Division Two*

*2 CA-CR 18-0312*

ORDERED: Motion to Consolidate = GRANTED.

FURTHER ORDERED: Consolidating this case with CR-19-0368-PR.

FURTHER ORDERED: Petition for Review to the Arizona Supreme Court = GRANTED as to this rephrased issue only:

Did the prosecutor's misstatement of the reasonable-doubt standard during rebuttal argument constitute fundamental, prejudicial error?

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 September 11, 2020. Any amicus briefs are due on or before September 21, 2020, and any responses to amicus briefs are due on or before October 2, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

**CR-20-0050-PR**  
(29)

**STATE OF ARIZONA v ABDULLAH MUJAHID**

*Court of Appeals, Division Two*

*2 CA-CR 19-0286 PRPC*

ORDERED: Petition for Review = CONTINUED.

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**CV-20-0009-PR**  
(30)

**KAREN K HEFNER v GARY S HEFNER**

*Court of Appeals, Division One*

*1 CA-CV 18-0404 FC*

ORDERED: Petition for Review of Petitioner/Appellee-Cross Appellant = DENIED.

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

**CV-20-0029-PR**  
(31)

**IN RE PIMA COUNTY MENTAL HEALTH NO A20170058**

*Court of Appeals, Division Two*

*2 CA-MH 19-0001 SP*

ORDERED: Petition for Review to Arizona Supreme Court = DENIED.

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**CV-20-0030-PR**  
(32)

**AMERICAN CIVIL LIBERTIES UNION OF AZ v DCS**

*Court of Appeals, Division One*

*1 CA-CV 18-0486*

ORDERED: Petition for Review = GRANTED as to Issue 1 only.

FURTHER ORDERED: Request for Attorneys' Fees (Appellee American Civil Liberties Union of Arizona) = CONTINUED.

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 the Court's Minute Letter. Any amicus briefs are due on or before September 29, 2020, and any responses to amicus briefs are due on or before October 14, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

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

**CV-20-0039-PR**  
(33)

**TIMOTHY SLATER v ABOR**

*Court of Appeals, Division One*

*1 CA-CV 19-0030*

ORDERED: Petition for Review = CONTINUED.

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**CV-20-0055-PR**  
(34)

**STEPHEN CHUNG et al v JEFF CHOULET et al**  
*Court of Appeals, Division One*                      *1 CA-CV 18-0460*

ORDERED: Petition for Review = DENIED.

FURTHER ORDERED: Request for Attorneys' Fees (Appellants/Cross-Appellees Choulet et al) = DENIED.

**CV-20-0058-PR**  
(35)

**CONCETTA RIZZIO v SURPASS SENIOR LIVING LLC et al**  
*Court of Appeals, Division One*                      *1 CA-CV 19-0221*

ORDERED: Petition for Review = GRANTED as to this rephrased issue only:

Whether a plaintiff's retainer agreement under which her attorney will advance all costs of arbitration can be considered as part of the plaintiff's individualized showing of her ability to financially bear the costs of arbitration.

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

FURTHER ORDERED: Request for Attorneys' Fees (Appellants Surpass Senior Living LLC et al) = CONTINUED.

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 the Court's Minute Letter. Any amicus briefs are due on or before September 29, 2020, and any responses to amicus briefs are due on or before October 14, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

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*Arizona Supreme Court*  
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**CV-20-0105-PR**  
(36)

**MARK D GOLDMAN v MARK K SAHL et al**  
*Court of Appeals, Division One*                      *1 CA-CV 18-0687*

ORDERED: Petition for Review = DENIED.

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

Justices Bolick and Gould voted to grant review.

**CV-20-0119-PR**  
(37)

**SWIFT TRANSPORTATION CO OF AZ v HON. CARMAN et al**  
*Court of Appeals, Division One*                      *1 CA-SA 20-0060*

ORDERED: Petition for Review of a Special Action Decision of the Court of Appeals = 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 the Court's Minute Letter. Any amicus briefs are due on or before September 29, 2020, and any responses to amicus briefs are due on or before October 14, 2020. Any amicus briefs or responses may not exceed 20 pages in length.

