

Appendix

A.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2012-005802-001 DT

10/05/2020

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT
A. Goodwin
Deputy

STATE OF ARIZONA

T P C APPEALS COUNTY ATTORNEY

v.

KIMMIE DWAYNE BAKER (001)

KIMMIE DWAYNE BAKER
1550 E THUNDERBIRD RD APT# 2106
PHOENIX AZ 85022

JUDGE RYAN

MINUTE ENTRY

The Court has read and considered defendant's "Computation of Time for Rule 26(C) Motion for Review". The Court has also received a document mailed September 17, 2020 entitled, "Default Judgment."

Defendant's documents make no sense. The Arizona Court of Appeals did not deny his appeals as untimely. Defendant's appellate efforts were dismissed, twice, because they determined this Court's rulings dated July 7, 2020 and filed July 9, 2020 were not appealable under Arizona law. The State is not obligated to file a response to frivolous documents, and the specious, inaccurate arguments cannot be reduced to a default judgment. The Court will take no further action at this time.

Appendix

B

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Respondent*,

v.

KIMMIE DWAYNE BAKER, *Petitioner*.

No. 1 CA-CR 20-0512 PRPC
FILED 5-6-2021

Petition for Review from the Superior Court in Maricopa County

No. CR2012-005802-001

The Honorable Timothy J. Ryan, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Kimmie Dwayne Baker, Phoenix
Petitioner

STATE v. BAKER
Decision of the Court

MEMORANDUM DECISION

Presiding Judge David B. Gass, Judge Michael J. Brown, and Judge David D. Weinzwieg delivered the decision of the Court.

PER CURIAM:

¶1 Petitioner Kimmie Dwayne Baker seeks review of the superior court's order denying his petition for post-conviction relief, filed pursuant to Arizona Rule of Criminal Procedure 32.1. This is petitioner's fourth petition.

¶2 Absent an abuse of discretion or error of law, this court will not disturb a superior court's ruling on a petition for post-conviction relief. *State v. Gutierrez*, 229 Ariz. 573, 577, ¶ 19 (2012). It is petitioner's burden to show that the superior court abused its discretion by denying the petition for post-conviction relief. *See State v. Poblete*, 227 Ariz. 537, ¶ 1 (App. 2011) (petitioner has burden of establishing abuse of discretion on review).

¶3 We have reviewed the record in this matter, the superior court's order denying the petition for post-conviction relief, and the petition for review. We find that petitioner has not established an abuse of discretion.

¶4 For the foregoing reasons, we grant review and deny relief.



AMY M. WOOD • Clerk of the Court
FILED: AA

IN THE
COURT OF APPEALS

STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 5/10/21
AMY M. WOOD,
CLERK
BY: RB

STATE OF ARIZONA,) Court of Appeals
) Division One
Respondent,) No. 1 CA-CR 20-0512 PRPC
)
v.) Maricopa County
) Superior Court
KIMMIE DWAYNE BAKER,) No. CR2012-005802-001
)
Petitioner.)
)
)
)

ORDER DENYING MOTION FOR RECONSIDERATION

The court, Presiding Judge David B. Gass, Judge Michael J. Brown, and Judge David. D. Weinzwieg participating, has reviewed Petitioner's "Motion for Reconsideration" filed May 7, 2021. After consideration,

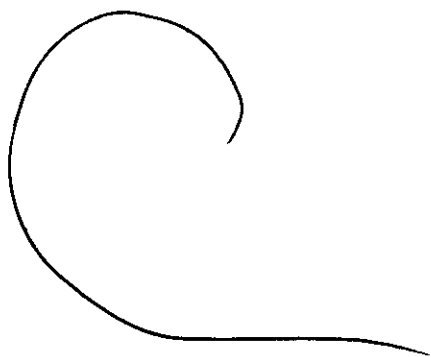
IT IS ORDERED denying Petitioner's motion.

_____/s/_____
David B. Gass, Presiding Judge

A copy of the foregoing
was sent to:

Kimmie Dwayne Baker
Amanda M Parker

Appendix





Supreme Court

STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

TRACIE K. LINDEMAN
Clerk of the Court

September 22, 2021

RE: STATE OF ARIZONA v KIMMIE DWAYNE BAKER
Arizona Supreme Court No. CR-21-0178-PR
Court of Appeals, Division One No. 1 CA-CR 20-0512 PRPC
Maricopa County Superior Court No. CR2012-005802-001

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on September 22, 2021, in regard to the above-referenced cause:

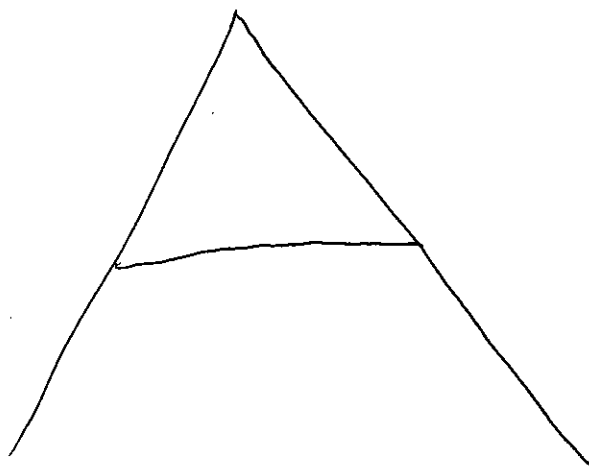
**ORDERED: Rule 23 Petition for Review Abuse of Discretion (sic)
Pro Se = DENIED.**

A panel composed of Vice Chief Justice Timmer, Justice Bolick, Justice Beene and Justice King participated in the determination of this matter.

Tracie K. Lindeman, Clerk

TO:
Linley Wilson
Amanda M Parker
Kimmie Dwayne Baker
Amy M Wood
lg

Exhibit



Person Filing: Kimmie Baker
Address (if not protected): 1550 E. Thunderbird Rd # 2106
City, State, Zip Code: Phoenix, AZ 85022
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

COPY

JUL 07 2020



CLERK OF THE SUPERIOR COURT
J. HOCKERSON
DEPUTY CLERK

Representing ☒ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

**SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY**

State of Arizona
Plaintiff

CR Number: 2012-005802001

Vs.

Title: Newly Discovered
Evidence/New Trial
Rule 59

Kimmie D. Baker
Name of Defendant

(The section below must be written to explain your request - what you want the judge to order if he/she grants your request (or Motion). If the judge agrees with your request, he/she will sign the attached Order or issue a "minute entry" noting his/her decision.)

Arizona Supreme Court recently amended rule 32, 33 on January 2, 2020. Defendant motions the Court for a New trial based on Newly discovered evidence. Factual bases and back ground: The prosecution argued in a hearing under rule 403, Motion to inlimine, a investigation report and findings Conducted by the Arizona Department of Economic Security. The State argued that the School District Never took a position on Charges and or allegations of alleged Company Violations allegedly Committed by Defendant. Judge Cohen heard the arguments and agreed With the State and denied the report and it's findings to be heard by a Jury. Newly Discovered evidence that

Today's Date: 6-29-2020 Your Signature: Kim D. Baker

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GNCR10f-040416

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5914

Page 1 of 2

Wasn't released to defendant has surfaced, producing evidence that Kevin Mendiville, Hr. Director of the Tempe Union High School District, on or about 4-16-2012, said, Discharge reason on page two of the attachment. Defendant moves for a New trial under Rule 59, Newly Discovered Evidence, Attached hereto and incorporated by reference is a document intitled "Side Variance Report" dated 4-16-2012, generated by Department of Economic Security Unemployment Insurance. It appears to be a amended response to a original response, on page two it appears under Discharge Reason Code, allegations against Defendant accusing defendant of not only theft, but also property damage, and fighting, allegations of Criminal behavior that the Jury was Never allowed to hear or examine on direct or Cross examination. This New Evidence holds probative Value against Judge Cohens 403 Inlimine Ruling because through Kevin Mendiville Hr. Director allegations of Criminal Misconduct was alleged See Attached Report pg two.

Judge Cohen erred by not allowing the Jury to hear the evidence from the Administrative Report Conducted by the Department of Economic Security prior to trial, in which (DES) rule in favor of Defendant.

In light of the late discovery, and for the reasons set forth under Newly Discovered Evidence Rule 59, and Supreme Court amended Rule 32, 33, Defendant Moves for a New trial.

Amended Response:

Original Response


Amended Response Description:

SIDES VARIANCE REPORT

SSN

Emp. Info.

Receipt Date

526-79-

Employer Acct. No.:

2012-04-16

FEIN

Other SSN:

Emp. Claimant Name:

Emp. Last Day of Work: 2011-10-04

Eff. Sep. Date: 2012-01-18

Emp. RFS Code:

General Adjudication

UB-098

Claimant SSN: █████ 6220 0

Issue: Discharge

Base Period Separation: No

Basis:

DISCHARGE - DISHONESTY-VIOLATION OF LAW/CRIMANL, ILLEGAL ACTS

BPR:

R6-3-51409, R6-3-51190

Reasoning and Conclusion:

SEE UB100. ELIGIBLE

Additional Text:

CLAIMANT STATEMENT

UB436 SENT 4/2/12, DUE 4/9/12, RECEIVED 4/19/12

TC: 602 446 9113, 4/17/12 @ 1:15 PM, SPOKE WITH CLAIMANT AND HE STATES HE WAS PLACED ON ADMINISTRATIVE LEAVE WITH PAY ON 10/4/11 PENDING AN INVESTIGATION. HE SAID HE WAS ACCUSED OF THEFT AND WAS ARRESTED BY TEMPE POLICE DEPT ACCUSED OF BURGLARIZING TEMPE HIGH SCHOOL. HE SAID, THIS IS STILL PENDING IN SUPERIOR COURT AND THE FINAL PRE TRIAL CONFERENCE WILL BE ON 4/20/12. CLAIMANT DENIES HE WAS FIGHTING, DENIES HE STOLE ANYTHING, DENIES HE DID ANY PROPERTY DAMAGE. THESE ALLEGATIONS HAVE NOT BEEN PROVEN IN A COURT OF LAW. HE SAID HE WAS DISCHARGED ON 1/18/12 BECAUSE THE BOARD UNANAMOUSLY AGREED. CLAIMANT STATES HE HAD BEEN EMPLOYED WITH THE SCHOOL DISTRICT FOR 20 YEARS AND HE DENIES ALL OF THE ALLEGATIONS.

LAST DAY OF WORK - 10/27/12

DISCHARGED. - 1/18/12

WHO DISCHARGED THE CLT AND WHAT WAS THEIR TITLE? - KEVIN MENDIVILLE, HR DIR. HE SAID THE BOARD MEMBERS VOTED UNANAMOUSLY TO TERMINATE HIS EMPLOYMENT THEY SAID BASED ON INFORMATION THEY RECEIVED FROM THE TEMPE POLICE DEPT THEY WERE GOING TO MOVE FORWARD WITH THE TERMINATION. NO OTHER INFORMATION WAS GIVEN.

EXACTLY WHAT REASON WAS THE CLT GIVEN FOR THE DISCHARGE? - FOR BURGLARIZING THE SCHOOL

DID CLT KNOWINGLY MISAPPROPRIATE COMPANY FUNDS OR FALSIFIED THEIR EMPLOYMENT APPLICATION OR A WRITTEN DOCUMENT TO OBTAIN OR RETAIN EMPLOYMENT? - CLAIMANT DENIES ALLEGATIONS

WAS CLT AWARE THAT HIS/HER ACTIONS COULD RESULT IN TERMINATION? IF YES, HOW WAS THE CLT MADE AWARE? (EMPLOYEE HANDBOOK, ETC.) HE SAID NO, HE DID NOT DO ANYTHING.

EMPLOYER STATEMENT

EMPLOYER NUMBER: 2048100 000 NAME: TEMPE UNION HIGH SCHOOL

UB110 SENT 4/2/12, DUE 4/16/12, REC'D 4/16/12

TC: 800 829 1510, 4/17/12 @ 1:00 PM SPOKE WITH █████ ER REP AND SHE IS REQUESTING EVIDENCE TO INCLUDE COPIES OF POLICY, HOW AWARE OF POLICY, FINAL INCIDENT COPIES OF WARNINGS, WRITTEN/FINAL WARNINGS TO BE RECEIVED BY 4/19/12 BY 1:00 PM.

General Adjudication

UB-098

Claimant SSN: 526 79 6220 0

AS OF 4/19/12, 1:26 PM, EMPLOYER HAS NOT PROVIDED EVIDENCE.

LAST DAY OF WORK -

DISCHARGED BY (NAME AND TITLE).

REASON FOR DISCHARGE?

FINAL INCIDENT?

HOW WAS THE EMPLOYER ADVERSELY AFFECTED? (IF NOT APPARENT)

PRIOR WARNINGS? VERBAL (DATES); WRITTEN (DATES)

CLMT REBUTTAL:

NOTE: DETERMINATION MADE WITH BEST INFORMATION AVAILABLE.

IF APPLICABLE SEE SECOND UB-098 FOR ADDITIONAL INFORMATION FROM ER AND/OR CLAIMANT.

DEPUTY COMMENT

THE BURDEN OF PROOF IS ON THE EMPLOYER. ALTHOUGH GIVEN THE OPPORTUNITY TO DO SO, THE EMPLOYER HAS NOT PROVIDED EVIDENCE.

Seasonal Employment Indicator:
Employer Reported Claimant First Day of Work: 1992-03-30
Employer Reported Claimant Last Day of Work: 2011-10-04
Effective Separation Date: 2012-01-18
Total Earned Wages Needed Indicator:
Total Earned Wages:
Total Weeks Worked Needed Indicator:
Total Weeks Worked:
Wages Earned After Claim Effective Date:
Number Of Hours Worked After Claim Effective Date:
Average Weekly Wage:
Employer Sep Reason Code: Fired/Discharged
Return To Work Indicator:
Return To Work Date:
Working All Available Hours Indicator:
Not Working Available Hours Reason:
Labor Dispute Type Indicator:
Employer Sep Reason Comments:
Discharge Reason Code: Dishonesty/Theft, Felony or Misdemeanor, Violation of Law, Criminal, Illegal Acts, Property Damage, Fighting
The City of Tempe filed theft charges against the claimant