

SUPREME COURT OF ARIZONA

TANYA WINTERS,	)	Arizona Supreme Court
	)	No. CV-22-0308-SA.
Petitioner,)	
	)	Gila County
v.	)	Superior Court
	)	Nos. P-0400-CV-202100404
HON. TIMOTHY M WRIGHT, JUDGE OF	)	P-0400-CV-202100413
THE SUPERIOR COURT FOR THE STATE)	
OF ARIZONA, in and for the)	
County of Gila,)	
)	
Respondent Judge,)	
)	
DEPARTMENT OF ECONOMIC SECURITY,)	
)	
Real Party in Interest.)	
)	
	)	FILED 02/23/2023

O R D E R

On May 10, 2022, Petitioner Winters, filed a pro se "Petition for Review," that the Court is treating as a Petition for Special Action in matters before the Gila County Superior Court. The Court apologizes for the length of time this matter has been pending. Due to an oversight, the matter was initially overlooked.

Pursuant to ARCAP 23(a), "A petition for review asks the Supreme Court to review a decision of the Court of Appeals," and pursuant to ARCAP 23(d), "A copy of the Court of Appeals' decision must accompany the petition." Notwithstanding the title of her pleading, Petitioner therefore does not appear to be seeking review of a decision of the Court of Appeals and presents no decision from the Court of Appeals.

Special Action Rule 4(b) sets forth where special action

proceedings are to be filed.

Special Action rule 7(b) requires a petitioner to "set forth the circumstances which in the opinion of the petitioner render it proper that the petition should be brought in the particular appellate court to which it is presented. If the appellate court finds such circumstances insufficient, the court will on that ground dismiss the petition."

Petitioner provides no compelling reason as to why this matter could not be initiated in a lower court. See Spec. Act. R.P. 4(b) and 7(b). Therefore,

IT IS ORDERED dismissing the petition without prejudice to bringing a proper proceeding in a lower court. In light of this Court's delay in ruling on this matter, that court should not fault Petitioner for the length of time the matter was pending in this Court. Petitioner is cautioned that any special action proceeding must comply with the requirements of the Rules of Procedure for Special Actions.

DATED this 23rd day of February, 2023.

/s/
ANN A. SCOTT TIMMER
Duty Justice

TO:
Tanya Winters

FILED

FEB 08 2023

Molly C. Dwyer, Clerk U.S. Court Of Appeals

Tanya Winters (pro se),
1000 North Beeline Highway #252
Payson, Arizona 85541
Telephone: 928 951-4201
Attorneys for Petitioner _____

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: Tanya Winters,

Petitioner,

v.

UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
ARIZONA,

Respondent,

and

UNITED STATES OF AMERICA,

Real Party in Interest.

23-70029
C.A. No. (22-16621)

D.Ct. No. 2022-CV-01375-DWL

**PETITION FOR WRIT OF
MANDAMUS**

RELIEF REQUESTED

Tanya Winters, petitioner/plaintiff in D. Ct. No. (2022-cv-01375DWL)
petitions this Court for a Writ of Mandamus reversing the district court

FILED

FEB 08 2023

Molly C. Dwyer, Clerk U.S. Court Of Appeals

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23-70029
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FILED

FEB 08 2023

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**IN THE UNITED STATES COURT OF APPEALS
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SUPREME COURT OF ARIZONA

TANYA WINTERS,)	Arizona Supreme Court
)	No. CV-22-0172-PR
Appellant,)	
	)	Court of Appeals
v.	)	Division One
	)	No. 1 CA-UB 22-0109
ARIZONA DEPARTMENT OF ECONOMIC)	
SECURITY, an Agency,	)	A.D.E.S. Appeals Board
	)	No. P-1788665-001-B
and)	
)	
DES/EMERGENCY RENTAL ASSISTANCE)	
PROGRAM,)	
)	
Appellees.)	
)	
	)	FILED 08/25/2022

O R D E R

On July 27, 2022, Appellee ADES filed a "Motion to Strike Appellant Winters's Petition for Review" and an "Appendix to Motion to Strike Appellant Winters's Petition for Review." After Consideration,

IT IS ORDERED granting appellees' motion to strike appellants' June 16, 2022, petition for review.

IT IS FURTHER ORDERED closing this matter.

DATED this 25th day of August, 2022.

/s/
ROBERT BRUTINEL
Chief Justice

TO:
Emily M Stokes
Tanya Winters

Tanya Winters (pro se),
1000 North Beeline Highway #252
Payson, Arizona 85541
Telephone: 928 951-4201
Attorneys for Petitioner _____

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: Tanya Winters,

Petitioner,

v.

UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
ARIZONA,

Respondent,

and

UNITED STATES OF AMERICA,

Real Party in Interest.

CV 220308
CA No: 23-170029
CA No: 22-16621
D.Ct. No. 2022-CV-01375-DWL

**PETITION FOR WRIT OF
MANDAMUS**

• 0400-CV-2100404
• 0400-CV-2100413

• AZDES P-1755225

RELIEF REQUESTED

Tanya Winters, petitioner/plaintiff in D. Ct. No. (22-cv-01375-DWL)
petitions this Court for a Writ of Mandamus reversing the district court

CERTIFICATE OF SERVICE

The undersigned party Tanya Winters on the ___ day of _____, 20___, filed an Original and one (1) copy of the ☐ Motion ☐ Petition for Review ☐ Response ☐ _____ in the Supreme Court; and served a copy to the following parties in compliance with Rule 1.7(c) of the Arizona Rules of Criminal Procedure as follows:

Party name:

Party name:

Party name:

Method of Service:

Method of Service:

Method of Service:

☐ Hand-Delivery

☐ Hand-Delivery

☐ Hand-Delivery

☐ Electronic Delivery

☐ Electronic Delivery

☐ Electronic Delivery

☐ Mail (Address below)

☐ Mail (Address below)

☐ Mail (Address below)

Tanya Winters

Attorney or Self-Represented Litigant's Printed Name

[Signature]

Signature

PO Box 778 Tonto Basin Az 85553

Address

CERTIFICATE OF SERVICE

The undersigned party Tanya Winters on the day of , 20 , filed an Original and one (1) copy of the ☒ Motion ☒ Petition for Review ☐ Response ☐ in the Supreme Court; and served a copy to the following parties in compliance with Rule 1.7(c) of the Arizona Rules of Criminal Procedure as follows:

Party name:

Mark Brownitch

Party name:

Brad Beauchamp

Party name:

Debbie Lescro

Method of Service:

 Hand-Delivery

Method of Service:

 Hand-Delivery

Method of Service:

 Hand-Delivery

 Electronic Delivery

 Electronic Delivery

 Electronic Delivery

☒ Mail (Address below)

2005 N. Central Ave
Phoenix AZ 85004

☒ Mail (Address below)

1400 E Ash St
Globe AZ 85501

☒ Mail (Address below)

12515 W. Bell Rd
Suite 104
Surprise AZ 85378

Tanya Winters

Attorney or Self-Represented Litigant's Printed Name

Signature

Address

PO Box 778 Fontana Basin Az 85553

UNITED STATES COURT OF APPEALS
FOR THE _____ CIRCUIT
NOTICE CHANGE ADDRESS


9th Circuit Case #^s: CV 220308, CA 23-70029, CA 22-16621

Case Name: Tariyal Winters v. ICA

Full Names: Tanya Winters v. ICA (etal)

New Mailing Address: PO Box 778 Tomb Basin AZ 85553

Phone #: 928-951-4201


Tanya Winters

3-10-22

Date

2018 OCT 22 PM 3:14

ANITA ESCOBEDO, CLERK

SUPERIOR COURT OF ARIZONA IN GILA COUNTY

BY _____ DEPUTY

Tanya Winters
Name of Petitioner/Plaintiff

Case Number: CV 201800284

Arizona IV-D Program
Name of Respondent/Defendant

**ORDER REGARDING DEFERRAL OR
WAIVER OF COURT FEES AND COSTS AND
NOTICE REGARDING CONSENT JUDGMENT**

THE COURT FINDS that the applicant (print name) Tanya Winters:

1. ☐ IS NOT ELIGIBLE FOR A DEFERRAL of fees and costs.
OR
2. ☐ IS ELIGIBLE FOR A DEFERRAL of fees and costs based on financial eligibility. As required by state law, the applicant has signed a consent to entry of judgment.
OR
3. ☐ IS ELIGIBLE FOR A DEFERRAL of fees and costs at the court's discretion (A.R.S. § 12-302(L)).
OR
4. ☒ IS ELIGIBLE FOR A DEFERRAL of fees and costs based on good cause shown. As required by state law, the applicant has signed a consent to entry of judgment.
OR
5. ☐ IS ELIGIBLE FOR A WAIVER of fees and costs because the applicant is permanently unable to pay.
OR
6. ☐ IS ELIGIBLE FOR A WAIVER of fees and costs at the court's discretion (A.R.S. § 12-302(L)).
OR
7. ☐ IS NOT ELIGIBLE FOR A WAIVER of fees and costs.

IT IS ORDERED:

☐ DEFERRAL IS DENIED for the following reason(s):

- ☐ The application is incomplete because _____
You are encouraged to submit a complete application.
- ☐ The applicant does not meet the financial criteria for deferral because _____

A deferral MUST BE granted if the applicant is receiving public assistance benefits from the Temporary Assistance to Needy Families (TANF) program or Food Stamps; presents documentation they are currently receiving services from a non-profit legal services organization; has an income that is insufficient or barely sufficient to meet the daily essentials of life and that includes no allotment that could be budgeted to pay the fees and costs necessary to gain access to the court; or, if the applicant demonstrates other good cause.

☒ DEFERRAL IS GRANTED for the following fees and costs in this court:

- ☒ Any or all filing fees; fees for the issuance of either a summons and subpoena; or the cost of attendance at an educational program required by A.R.S. § 25-352, fees for obtaining one certified copy of a temporary order in a domestic relations case or a final order, judgment or decree in all civil proceedings.
- ☒ Fees for service of process by a sheriff, marshal, constable or law enforcement agency.
- ☐ Fees for service by publication.
- ☐ Filing fees and photocopy fees for the preparation of the record on appeal.
- ☐ Court reporter or transcriber fees if employed by the court for the preparation of the transcript.

Case Number: _____

IF A DEFERRAL IS GRANTED, PLEASE CHECK ONE OF THE FOLLOWING BOXES:

☒ **NO PAYMENTS WILL BE DUE UNTIL FURTHER NOTICE.**

☐ **SCHEDULE OF PAYMENTS.**

The applicant shall pay \$ _____ each _____ (week, month etc.) until paid in full, beginning _____.

☒ **WAIVER IS DENIED** for all fees and costs in this case.

☐ **WAIVER IS GRANTED** for all fees and costs in this case that may be waived under A.R.S. § 12-302(H).

- ☐ Any or all filing fees; fees for the issuance of either a summons or subpoena; or the cost of attendance at an educational program required by A.R.S. § 25-352, fees for obtaining one certified copy of a temporary order in a domestic relations case or a final order, judgment or decree in all civil proceedings.
- ☐ Fees for service of process by a sheriff, marshal, constable or law enforcement agency.
- ☐ Fees for service by publication.
- ☐ Filing fees and photocopy fees for the preparation of the record on appeal.
- ☐ Court reporter or transcriber fees if employed by the court for the preparation of the transcript.

RIGHT TO JUDICIAL REVIEW. If the application is denied or a payment schedule is set by a special commissioner, you may request the decision be reviewed by a judicial officer. The request must be made within twenty (20) days of the day the order was mailed or delivered to you. If a schedule of payments has been established, payments shall be suspended until a decision is made after judicial review. Judicial review shall be held as soon as reasonably possible.

NOTICE REGARDING CONSENT JUDGMENT. Unless any of the following applies, a consent judgment may be entered against the applicant for all fees and costs that are deferred and remain unpaid thirty (30) days after entry of final judgment:

- A. Fees and costs are taxed to another party;
- B. The applicant has an established schedule of payments in effect and is current with those payments;
- C. The applicant filed a supplemental application for waiver or further deferral of fees and costs and a decision by the court is pending;
- D. In response to a supplemental application, the court orders that the fees and costs be waived or further deferred; or
- E. Within twenty (20) days of the date the court denies the supplemental application, the applicant either:
 - 1. Pays the fees and costs; or,
 - 2. Requests a hearing on the court's order denying further deferral or waiver. If the applicant requests a hearing, the court cannot enter the consent judgment unless a hearing is held, further deferral or waiver is denied, and payment has not been made within the time prescribed by the court.

If an appeal is taken, a consent judgment for deferred fees and costs that remain unpaid in the lower court shall not be entered until thirty (30) days after the appeals process is concluded. The procedures for notice of court fees and costs and for entry of a consent judgment continue to apply.

If a consent judgment is signed and the applicant pays the fees and costs in full, the court is required to comply with the provisions of A.R.S. § 33-964(C).

DUTY TO REPORT CHANGE IN FINANCIAL CIRCUMSTANCES. An applicant who is granted a deferral or waiver shall promptly notify the court of any change in financial circumstances during the pendency of the case that would affect the applicant's ability to pay court fees and costs. Any time the applicant appears before the court on this case, the court may inquire as to the applicant's financial circumstances.

DATED: 10/17/18

☒ **Judicial Officer** ☐ **Special Commissioner**
Timothy M. Wright

Tanya Winters (pro se),
1000 North Beeline Highway #252
Payson, Arizona 85541
Telephone: 928 951-4201
Attorneys for Petitioner _____

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: Tanya Winters,

Petitioner,

v.

UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
ARIZONA,

Respondent,

and

UNITED STATES OF AMERICA,

Real Party in Interest.

CV 220308
CA No: 23-170029
CA No: 22-16621
D.Ct. No. 2022-CV-01375-DWL

**PETITION FOR WRIT OF
MANDAMUS**

• 0400-CV-2100404
• 0400-CV-2100413

• AZDES P-1755225

RELIEF REQUESTED

Tanya Winters, petitioner/plaintiff in D. Ct. No. (22 cv-01375DWL)
petitions this Court for a Writ of Mandamus reversing the district court

Tanya Winters (pro se),
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Payson, Arizona 85541
Telephone: 928 951-4201
Attorneys for Petitioner _____

IN THE UNITED STATES COURT OF APPEALS
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Petitioner,

v.

UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
ARIZONA,

Respondent,

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CA No: 23-170029
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RELIEF REQUESTED

Tanya Winters, petitioner/plaintiff in D. Ct. No. (22 cv-01375DWL)

petitions this Court for a Writ of Mandamus reversing the district court

Tanya Winters (pro-se)
PO Box 778
Tonto Basin AZ 85553
928 951-4201

IN THE UNITED STATES COURT OF APPEALS
FOR THE _____ CIRCUIT

Tanya Winters,
Petitioner/Plaintiff,
v. ~~Gila County Superior Court~~
Timothy Wright, Respondent,
Respondent/Defendant,
Judge Beardliff,
Respondent/Defendant,
Judge Vasquez,
Respondent/Defendant.

•
•
• 2CACV-2019-0024

ON PETITION FOR WRIT OF HABEAS

RELIEF

Rule 6.5

Not mailed

Tanya Winters (prose)
PO Box 778
Tonto Basin AZ 85553
928 951-4201

IN THE GILA COUNTY SUPERIOR COURT
FOR THE _____ CIRCUIT

in re: Tanya Winters,
Petitioner/Plaintiff,

✓
Gila County Superior
Court,

Respondent,

Timothy Wright,
Respondent,

and THE UNITED
STATE of America,
Real Party Interest,

- 23-70029
- CV220308
- 22-16621
- D.Ct. No: 22CV01375 PHX DWL

PETITION WRIT MANDAMUS

- DO 200037
- ATLAS No: 000210877300
- ATLAS No: 000210877301

Relief

Rule 6.5

ERL 8.2

Tanya Winters (pro-se)
PO Box 778
Tonto Basin AZ 85553
928 951-4201

IN THE UNITED STATES COURT OF APPEALS
FOR THE _____ CIRCUIT

in re: Tanya Winters,
Petitioner/Plaintiff,

v. Gila County Superior Court,
Respondent,

Timothy Wright,
Respondent/Defendant

Brian B Chambers,
Respondent/Defendant.

Gary Scales

Marc Brnawitch
Respondent/Defendant.

UNITED STATES OF AMERICA,
REAL PARTY INTEREST.

- 22-0308
- 23-70029
- 23-16621
- DO200037

ATLAS No: 000210877300

ATLAS No: 000210877300

ID# 00165384

Rule 6.5 RELIEF

AKS 13-2009

ER 8.2 Not mailed

Copy X3

Contents

A Supreme

RECEIVED

Motion IFP

JAN 03 2023

CLERK SUPREME COURT

Writ Certiorari 12pgs 12-28-22

Prepaid envelopes - Brnovitch, Beauchamp,
Lesco, Winters

9th Circuit Order 11-1-22 (2216621) DC 22-1375 DNE

ICA Findings Award 9-27-22

Supreme 8-24-22 Case #⁵ CV 22-0172 PR

DIV 1 1CAWB 22-0109

DES P-1788665-001 B

Div One 1CAWB 22-0413

Please return all needed for me
in the self addressed envelope.

SUPREME COURT OF ARIZONA

TANYA WINTERS,	)	Arizona Supreme Court
	)	No. CV-22-0172-PR
Appellant,)	
	)	Court of Appeals
v.	)	Division One
	)	No. 1 CA-UB 22-0109
ARIZONA DEPARTMENT OF ECONOMIC)	
SECURITY, an Agency,	)	A.D.E.S. Appeals Board
	)	No. P-1788665-001-B
and)	
)	
DES/EMERGENCY RENTAL ASSISTANCE)	
PROGRAM,)	
)	
Appellees.)	
)	
	)	FILED 08/25/2022

O R D E R

On July 27, 2022, Appellee ADES filed a "Motion to Strike Appellant Winters's Petition for Review" and an "Appendix to Motion to Strike Appellant Winters's Petition for Review." After Consideration,

IT IS ORDERED granting appellees' motion to strike appellants' June 16, 2022, petition for review.

IT IS FURTHER ORDERED closing this matter.

DATED this 25th day of August, 2022.

/s/
ROBERT BRUTINEL
Chief Justice

TO:
Emily M Stokes
Tanya Winters

1
2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Tanya Winters,

10 Plaintiff,

11 v.

12 Industrial Commission of Arizona, et al.,

13 Defendants.
14

No. CV-22-01375-PHX-DWL

ORDER

15 This matter having been referred to the Court by the Ninth Circuit (Doc. 11) for
16 the limited purpose of determining whether in forma pauperis status should continue for
17 the appeal or whether the appeal is frivolous or taken in bad faith, *see* 28 U.S.C.
18 § 1915(a)(3), the Court hereby certifies that the appeal is frivolous and therefore, “judged
19 by an objective standard,” is not taken in good faith. *Coppedge v. United States*, 369
20 U.S. 438, 445 (1962).

21 Dated this 25th day of October, 2022.

22
23 
24 _____
25 Dominic W. Lanza
26 United States District Judge
27
28

Cc: Ninth Circuit Court of Appeals

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> LODGED
<input type="checkbox"/> RECEIVED	<input checked="" type="checkbox"/> COPY
OCT 11 2022	
CLERK U.S. DISTRICT COURT	
DISTRICT OF ARIZONA	
BY <u>BKD</u>	DEPUTY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Form 1. Notice of Appeal from a Judgment or Order of a
United States District Court

U.S. District Court case number: 22 CV 01375-PHX-DWL

Notice is hereby given that the appellant(s) listed below hereby appeal(s) to the United States Court of Appeals for the Ninth Circuit.

Date case was first filed in U.S. District Court: 8- -22

Date of judgment or order you are appealing: 8-22-22

Docket entry number of judgment or order you are appealing:

Fee paid for appeal? (appeal fees are paid at the U.S. District Court)

☐ Yes ☐ No ☐ IFP was granted by U.S. District Court

List all Appellants (List each party filing the appeal. Do not use "et al." or other abbreviations.)

Tanya Winters

Is this a cross-appeal? ☐ Yes ☒ No

If yes, what is the first appeal case number?

Was there a previous appeal in this case? ☒ Yes ☐ No

If yes, what is the prior appeal case number? 1 CA-UB22-0109

Your mailing address (if pro se):

602 Az Hwy 260 #114 Payson Az

City: Payson State: AZ Zip Code: 85541

Prisoner Inmate or A Number (if applicable):

Signature [Signature] Date 9-28-22

Complete and file with the attached representation statement in the U.S. District Court

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

IN THE SUPERIOR COURT
OF
Gila County, State of Arizona

FILED in Court Record

02/25/2022

HON. TIMOTHY M. WRIGHT
Div: 2

V GUADIANA
Judicial Assistant

TANYA WINTERS,

Plaintiff,

vs.

DEPARTMENT OF ECONOMIC
SECURITY,

Defendant(s).

CV202100404

Related Case: CV202100413

ORDER

On February 8, 2022, the Court issued a Minute Entry Order ("the Order") dismissing these cases. The Order explained that the reason for the dismissal as being the lack of service on any Defendants.

Since the Order, Plaintiff has filed 11 pleadings in the CV202100404 matter and 12 pleadings in the CV202100413 matter. None of these pleadings requested that the cases be reopened or provided any plan to serve any of the Defendants. One pleading (filed in each case) requested an explanation of the reason for the dismissal. The Court notes that the Order fully explained the reason for dismissal of each case.

Based upon the foregoing,

The Court takes no action on any of the pleadings filed following the February 8, 2022 dismissal.

cc:

TANYA WINTERS
9236 W. STAGELINE RD.
PAYSON, AZ 85541

Office Distribution:

IN THE SUPERIOR COURT
OF
Gila County, State of Arizona

FILED in Court Record

02/25/2022

HON. TIMOTHY M. WRIGHT
Div: 2

V GUADIANA
Judicial Assistant

TANYA WINTERS,

CV202100413

Plaintiff,

vs.

ARIZONA STATE OF (et al),
Defendant(s).

Related Case: CV202100404

ORDER

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cc:

TANYA WINTERS
9236 W. STAGELINE RD.
PAYSON, AZ 85541

Office Distribution:



Supreme Court

STATE OF ARIZONA

ROBERT BRUTINEL
CHIEF JUSTICE

TRACIE K. LINDEMAN
CLERK OF THE COURT

February 27, 2023

Tanya Winters
P.O. Box 778
Tonto Basin, AZ 85553

RE: Copies of Documents Filed in United States Circuit Court

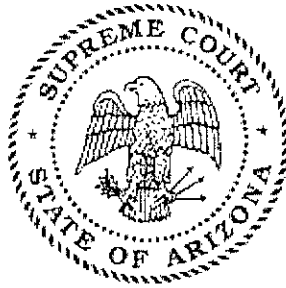
On January 3, 2023, the Arizona Supreme Court received from you copies of documents which appear to have been filed in federal circuit court, along with a stamped, self-addressed envelope.

The jurisdiction of the Court extends only to the consideration of matters properly presented from lower courts or as otherwise authorized by law and filed pursuant to applicable rules. Neither does the Court file courtesy notices or courtesy copies of documents captioned for other courts. Therefore, your documents are being returned to you. A record of this correspondence will be made with the Office of the Clerk.

Sincerely,

Tracie K. Lindeman, Clerk

By 
Deputy Clerk



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

August 24, 2022

RE: TANYA WINTERS v ARIZONA DES/ECON SECURITY
Arizona Supreme Court No. CV-22-0172-PR
Court of Appeals, Division One No. 1 CA-UB 22-0109
A.D.E.S. Appeals Board No. P-1788665-001-B

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 23, 2022, in regard to the above-referenced cause:

ORDERED: Motion to Strike Appellant Winters's Petition for Review = GRANTED.

Tracie K. Lindeman, Clerk

TO:
Emily M Stokes
Tanya Winters
Amy M Wood
jd

Appendix A

**Court of Appeals, Division One
Unemployment Board**

1 CA-UB 22-0431

WINTERS v. ADES/DES/ERAP

Appellate Case Information

Case Filed: 25-Nov-2022

Case Closed:

Dept/Composition

Side 1. TANYA WINTERS, Appellant

(Litigant Group) TANYA WINTERS

• Tanya Winters

PRO SE

Side 2. ARIZONA DEPARTMENT OF ECONOMIC SECURITY, an Agency, Appellee

(Litigant Group) ARIZONA DEPARTMENT OF ECONOMIC SECURITY

• Arizona Department of Economic Security

Attorneys for: Appellee ADES

Emily M Stokes, Esq. (AZ Bar No. 34134)

Side 3. DES/ERAP, Appellee

(Litigant Group) DES/ERAP

• Appeals Processing Unit

PRO SE

PREDECESSOR CASE(S)

UAB P-1755225-001-B

Cause/Charge/Class

Judgment/Sentence

Judge, Role <Comments>

Trial

Dispo

PENDING MATTER

Unemployment Application

Filed: 25-Nov-2022

Record on Appeal/Application for Appeal to the Court of Appeals

1 PROCEEDING ENTRIES

1. 25-Nov-2022 FILED: Record on Appeal/Application for Appeal to the Court of Appeals

BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA

TANYA WINTERS,

Applicant,

vs.

F N F CONSTR,

Defendant Employer,

MARYLAND CASUALTY CO,

Defendant Insurance Carrier.

ICA Claim No. 98155295758

Ins. Claim No. 2620028906

Date of Injury: 6/1/1998

ALJ Case No. ALJ0020594

FINDINGS AND AWARD DISMISSING REQUEST FOR HEARING

NOTICE

YOU ARE NOTIFIED that the hearing set for 2:00 P.M. on 10/27/2022 has been **CANCELLED**.

FINDINGS

1. Applicant sustained an industrial injury on June 1, 1998. On July 15, 2022, Applicant filed a letter deemed to be a Request for Hearing. A formal hearing was scheduled to commence in Phoenix, Arizona on October 27, 2022.
2. By Motion to Dismiss filed on September 12, 2022, counsel for Defendants notified the undersigned that Applicant had failed to respond to written interrogatories propounded on August 16, 2022, and had failed to attend a duly noticed deposition scheduled for September 12, 2022.
3. Pursuant to A.A.C. R20-5-142, an applicant is required to attend a deposition. In this case, Applicant failed to attend a deposition on September 12, 2022. Pursuant to A.A.C. R20-5-144, an applicant is required to answer written interrogatories. In this case, Applicant has failed to answer written interrogatories propounded on August 16, 2022. Applicant has failed to provide any explanation for her failure to cooperate with discovery.
4. A presiding Administrative Law Judge may dismiss an applicant's request for hearing if an applicant fails to comply with the Rules of Procedure for Worker's Compensation Hearings absent good cause. A.A.C. R20-5-157. "Good cause" under Rule 157 requires a consideration of factors which may relieve an applicant of the sanction of dismissal, including (1) whether there is a pattern of failure to cooperate, such as failure to answer interrogatories and appear for a deposition; (2) whether or not counsel acted with due diligence; (3) whether or not there is some evidence presented to support the claimant's case; and (4) whether or not the employer/carrier has suffered prejudice, such as the complete frustration of discovery. *Brown v. Indus. Comm'n*, 154 Ariz. 252, 254, 741 P.2d 1230, 1232 (App. 1987).

APPENDIX B

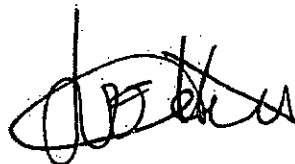
5. Having weighed the factors that are relevant and material, I conclude that Applicant's failure to attend a deposition and failure to provide answers to interrogatories evidence either a pattern of failure to cooperate or abandonment of the Request for Hearing. Accordingly, I find and conclude the Applicant has waived the right to a hearing. *Davis v. Industrial Commission*, 103 Ariz. 114, 437 P.2d 647 (1968); *Dusten v. Industrial Commission*, 43 Ariz. 96, P. 2d 155 (1934).
6. Considering the factors set forth in *Brown*, 154 Ariz. at 254, 741 P.2d at 1232, I further find that Applicant has not shown good cause sufficient to relieve her from the sanctions provided for by the Rules of Procedure for Worker's Compensation Hearings. Therefore, the sanction of dismissal of Applicant's Request for Hearing is appropriate and Defendants' Motion to Dismiss is granted.

AWARD

IT IS ORDERED that Applicant's Request for Hearing filed on July 15, 2022, is hereby **DISMISSED**.

NOTICE: Any party dissatisfied with this Award may file a written request for review of the same with the Administrative Law Judge Division of the Industrial Commission within THIRTY (30) DAYS after the mailing of this Award as provided by A.R.S. §§23-942(D) and 23-943(A) and (B). Unless such written request is made within the time provided, this Award is final.

The Industrial Commission of Arizona



Kenneth J. Hill
Administrative Law Judge
(602) 542-5244
Date Signed: September 27, 2022

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- DATED ORDER -

- Supreme Court AZ CV220308SA.p-0400CV-202100404/0413
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- Supreme Court AZ CV-22-0172PR. 1CAUB 22-0109.
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1755225. June 16, 2022. Robert Brutinel.
~~REAL PARTY~~ DES Appellee.
- Appeals Division One 1CAUB 22-0431. NW 25, 2022
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- Supreme Court AZ. 2-27-23. 1-3-23 returned
US Supreme. Dated 12-27-22 writ Certiorari is
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- District AZ Order CV-22-01375 DWL. 10-25-22
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- Supreme AZ: 8-24-22. CV220172PR,
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- ICA Findings: ICA claim No: 98155295758
9-27-22 INS. claim No: 2620028906
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